By Mr. McCALL: Petition of citizens of Waltham, Mass., for National Government forest reservations—to the Committee on Agriculture.

By Mr. McNARY: Petition of A. E. Yoell, of the Japanese and Korean Exclusion League, for the Chinese law as it is—to the Committee on Foreign Affairs.

Also, petition of the International Association of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MARTIN: Petition of citizens of Bridgewater, S. Dak., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MOUSER: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. NORRIS: Petition of the Nebraska Cement Users' Association, for continued experiments by the Geological Survey, relative to structural materials—to the Committee on Appropriations.

Also, petition of the International Association of Master House Painters and Decorators of America, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. OLMSTED: Petition of ladies of Carlisle, Pa., for forest reservations in the White Mountains and the Southern Appalachian Mountains—to the Committee on Agriculture.

Also, petition of ladies of Carlisle, Pa., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of ladies of Carlisle, Pa., for preservation of the forests of Minnesota—to the Committee on Agriculture.

Also, petition of Group No. 5, Pennsylvania Bankers' Association, of Harrisburg, Pa., for bill H. R. 8972—to the Committee on Banking and Currency.

Also, petition of school-teachers of Harrisburg, Pa., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. SAMUEL: Petition of Ed. Roth, of Shamokin, Pa., against bill H. R. 12973 (the Chinese-exclusion law)—to the Committee on Foreign Affairs.

By Mr. SHACKLEFORD: Petition of T. H. Jenkins et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SHARTEL: Petition of citizens of Missouri, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Missouri, for the Senate amendment to the statehood bill for Oklahoma and Indian Territory—to the Committee on the Territories.

Also, petition of citizens of Missouri, against Sunday banking in post-offices—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Missouri, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SLAYDEN: Petition of public school teachers of San Antonio, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of citizens of Texas, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SMITH of Kentucky: Paper to accompany bill for relief of the Christian Church at Campbellsville, Ky.—to the Committee on War Claims.

By Mr. SAMUEL W. SMITH: Petition of citizens of Oklahoma, for statehood—to the Committee on the Territories.

Also, petition of citizens of Flushing and Bellville, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Michigan, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Michigan, for an experimental parcels post—to the Committee on the Post-Office and Post-Roads.

By Mr. SPERRY: Petition of citizens of New Haven, Conn., against sale of liquor in Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. STEVENS of Minnesota: Petition of the New York Clearing House, for an amendment to bill H. R. 8973—to the Committee on Banking and Currency.

Also, petition of citizens of Minnesota, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. TOWNSEND: Petition of Typographical Union No. 154, of Ann Arbor, Mich., for the Gilbert bill—to the Committee on the Judiciary.

Also, petition of the State Normal School of Michigan, for an appropriation to support the department of elementary agriculture in State normal schools in the United States—to the Committee on Agriculture.

Also, petition of Grange No. 280, of Morenci, Mich, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. VAN WINKLE: Petition of Ellsworth Camp, Sons of Veterans, against bill H. R. 8131—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of Ellen Ramsey—to the Committee on Invalid Pensions.

SENATE.

THURSDAY, *March 22, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Journal of yesterday's proceedings was read and approved.

NAVIGATION OF WATER CRAFT.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting drafts of three bills to amend each of the three general "collision laws" affecting the navigation of water craft upon waters within the United States, so as to bring within the scope of these several laws rafts navigating in tow, etc.; which, with the accompanying papers, was referred to the Committee on Commerce, and ordered to be printed.

PATENTS FOR ALLOTTED LAND IN OKLAHOMA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting, in response to a resolution of the 14th ultimo, a letter from the Commissioner of Indian Affairs, submitting schedules of copies of all correspondence in the case of the Kickapoos and Martin J. Bentley, ex-special United States agent in charge of the Kicking Mexican Kickapoo Indians; which, with the accompanying papers, was referred to the Committee on Indian Affairs.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Mary T. Sweeting, heir at law of John Joins, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the Trustees of the Presbyterian Church of Marshall, Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the Trustees of the Cumberland Presbyterian Church, of Clarksville, Tenn., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of The Trustees of the Mount Zion Methodist Episcopal Church (colored), of Middletown, Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of The Trustees of the Fredericksburg Baptist Church, of Fredericksburg, Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. DRYDEN presented the petition of E. H. Parvin, of Newfield, N. J., and the petition of Charles B. Gould, of Caldwell, N. J., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented petitions of the Woman's Club of Westfield, of the Cosmos Club of Elizabeth, of the Reading Club of Woodbury, of the Travelers' Club of Newark, and of the Woman's

Club of Orange, all in the State of New Jersey, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of the American Saw Mill Machinery Company, of Hackettstown, N. J., and a petition of the Atha Tool Company, of Newark, N. J., praying for the passage of the so-called "Williams-Mallory bill," relating to quarantine regulations of the Gulf ports; which were referred to the Committee on Public Health and National Quarantine.

Mr. NELSON presented a petition of the National Brotherhood of Railroad Trainmen, praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. PLATT presented a memorial of the Woman's Christian Temperance Union of Greenwich, N. Y., and a memorial of the congregation of the Methodist Episcopal Church of Clifton Springs, N. Y., remonstrating against the repeal of the present anticanteen law; which were referred to the Committee on Military Affairs.

Mr. SPOONER presented a petition of sundry citizens of Barron County, Wis., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

He also presented memorials of sundry citizens of Janesville, New Glarus, Wilmot, Mayville, St. Cloud, Racine, Milwaukee, Greenwood, Columbus, Sheboygan, and Kenosha, all in the State of Wisconsin, remonstrating against the passage of the so-called "parcels-post bill;" which were referred to the Committee on Post-Offices and Post-Roads.

Mr. FLINT presented a petition of the Board of Trade of Corona, Cal., praying for the adoption of an amendment to the so-called "Hepburn railroad rate bill," granting authority to the shipper to route his fruit; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Methodist Preachers' Association, of Los Angeles, Cal., and a petition of the Presbyterian Ministerial Association, of Los Angeles, Cal., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings and grounds; which were referred to the Committee on Public Buildings and Grounds.

He also presented a petition of sundry citizens of San Diego, Cal., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a memorial of the San Francisco Labor Council, of San Francisco, Cal., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

Mr. GALLINGER presented a petition of the New Century Club, of Manchester, N. H., and a petition of the Woman's Club, of Berlin, N. H., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of the Consumers' League of Maryland, of Baltimore, Md., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented the memorial of T. W. Tyrer, of Washington, D. C., remonstrating against the enactment of legislation providing for the purchase of land as an addition to Rock Creek Park; which was referred to the Committee on the District of Columbia.

Mr. KITTREDGE presented a petition of the Federation of Women's Clubs, of Flandreau, S. Dak., praying for an investigation into the industrial conditions of the women of the country; which was referred to the Committee on Education and Labor.

Mr. KEAN presented the memorial of Grover C. Traynor, of Westfield, N. J., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented a petition of Trenton Lodge No. 38, Brotherhood of Railroad Trainmen, of Trenton, N. J., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigation.

He also presented a petition of the Cosmos Club of Elizabeth, N. J., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of the J. C. Smith & Wallace Company, of Newark, N. J., praying for the enactment of legislation relating to the issuing by common carriers of bills of lading; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Society for Organized Charity of Salem, N. J., praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. RAYNER (for Mr. GORMAN) presented sundry papers to accompany the bill (S. 5093) granting an increase of pension to Josiah F. Staubs; which were referred to the Committee on Pensions.

He also presented sundry papers to accompany the bill (S. 5094) granting an increase of pension to Samuel F. Baublitz; which were referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (S. 4982) relating to the sale of poultry in the District of Columbia, reported it with amendments, and submitted a report thereon.

Mr. PENROSE, from the Committee on Commerce, to whom was referred the bill (S. 4967) to establish additional aids to navigation in Delaware Bay and River, reported it with amendments, and submitted a report thereon.

Mr. PILES, from the Committee on Commerce, to whom was referred the bill (S. 5026) providing for the construction and equipment of a first-class life-saving ocean-going tug, also a launch tender to be used in connection therewith, for service on the north Pacific coast of the United States, reported it with amendments, and submitted a report thereon.

Mr. FRAZIER, from the Committee on Claims, to whom was referred the bill (S. 4245) for the relief of George T. Larkin, reported it without amendment, and submitted a report thereon.

Mr. CLARK of Wyoming, from the Committee on Public Lands, to whom was referred the bill (S. 4628) providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof, reported it with amendments, and submitted a report thereon.

Mr. WARREN, from the Committee on Military Affairs, to whom was referred the bill (S. 5110) to remove the charge of desertion from the military record of Henry Mitchelson and to grant him an honorable discharge, asked to be discharged from its further consideration and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. MILLARD, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 2350) providing for the erection of a public building at the city of Plattsmouth, Nebr., and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. CLARK of Montana, from the Committee on Indian Affairs, reported an amendment intended to be proposed to the bill (H. R. 8461) to amend chapter 1495, Revised Statutes of the United States, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by section 9 of chapter 1479, Revised Statutes of the United States; which was ordered to lie on the table, and be printed.

PURCHASES BY ISTHMIAN CANAL COMMISSION.

Mr. MILLARD, from the Committee on Interoceanic Canals, reported the following resolution; which, with the accompanying paper, was referred to the Committee on Printing:

Resolved, That a tabulated statement prepared by the auditor of the Ishmian Canal Commission, entitled "Statement showing orders issued by the Isthmian Canal Commission for purchases involving $1,000 or more, November 1, 1905, to March 7, 1906," be printed as a Senate document, in pursuance of a motion adopted by the Committee on Interoceanic Canals, and that this resolution be referred to the Senate Committee on Printing.

SHOSHONE OR WIND RIVER INDIAN RESERVATION IN WYOMING.

Mr. HANSBROUGH. From the Committee on Public Lands I report back without amendment the joint resolution (H. J. Res. 117) extending the time for opening to public entry the unallotted lands on the ceded portion of the Shoshone or Wind River Indian Reservation in Wyoming. I ask for its present consideration, as it is an emergency measure.

The Secretary read the joint resolution, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It extends the time for opening to public entry the ceded portion of the Shoshone or Wind River Indian Reservation in Wyoming to the 15th day of August, 1906, unless the President shall determine that the same may be opened at an earlier date.

The joint resolution was reported to the Senate without

amendment, ordered to a third reading, read the third time, and passed.

Mr. HANSBROUGH. I am directed by the Committee on Public Lands, to whom was referred the joint resolution (S. R. 42) extending the time for opening to public entry the unallotted lands on the ceded portion of the Shoshone or Wind River Indian Reservation in Wyoming, to report it back adversely, and move its indefinite postponement.

The motion was agreed to.

SURVEY OF THE OHIO RIVER NEAR CINCINNATI.

Mr. ELKINS. I am directed by the Committee on Commerce, to whom was referred the bill (S. 5035) authorizing a survey of the Ohio River at Cincinnati, Ohio, for the purpose of establishing an ice harbor, to report it back adversely, and in lieu thereof to report a concurrent resolution which is supposed to be in better form. I will ask the indefinite postponement of the bill, and as the concurrent resolution is only four lines long, I will ask for its immediate consideration.

The VICE-PRESIDENT. Without objection, the bill will be indefinitely postponed. The concurrent resolution will be read.

The concurrent resolution was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made a survey and examination of the Ohio River at or near Cincinnati, Ohio, for the purpose of establishing a suitable ice harbor.

BILLS INTRODUCED.

Mr. TILLMAN introduced a bill (S. 5251) granting an increase of pension to William Woods; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 5252) to renew and extend certain letters patent; which was read twice by its title, and referred to the Committee on Patents.

He also introduced a bill (S. 5253) granting an increase of pension to Isaac B. Doolittle; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FRAZIER introduced a bill (S. 5254) for the relief of Nathaniel R. Carson and William C. Carson; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. DILLINGHAM introduced a bill (S. 5255) granting an increase of pension to John D. Cutler; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. SMOOT introduced a bill (S. 5256) granting an increase of pension to John Johnson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PLATT introduced a bill (S. 5257) granting an increase of pension to Marvin Chandler; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. PENROSE introduced a bill (S. 5258) to provide for the erection of a public building at Albuquerque, Territory of New Mexico; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also introduced a bill (S. 5259) making an appropriation of $20,000 to construct an additional building to the Indian school at Santa Fe, N. Mex.; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also introduced a bill (S. 5260) to provide for an additional associate justice of the supreme court of the Territory of New Mexico; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WETMORE introduced a bill (S. 5261) granting an increase of pension to Stephen A. Barker; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 5262) granting an increase of pension to Frank N. Nichols; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. WARNER introduced a bill (S. 5263) authorizing the appointment of Francis M. McCallum, contract surgeon, United States Army, as a captain and assistant surgeon on the retired list; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BLACKBURN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5264) for the relief of George Taylor, administrator of the estate of Elizabeth Taylor, deceased;

A bill (S. 5265) for the relief of C. B. Kinnett;

A bill (S. 5266) for the relief of Frank W. Clark;

A bill (S. 5267) for the relief of the estate of Solomon Jones, deceased;

A bill (S. 5268) for the relief of the estate of R. W. Hawkins, deceased;

A bill (S. 5269) for the relief of Elizabeth Neal;

A bill (S. 5270) for the relief of Ellenor Gibson Whitney;

A bill (S. 5271) for the relief of William G. Hayden;

A bill (S. 5272) for the relief of George W. Vermillion;

A bill (S. 5273) for the relief of the estate of Mary Rendy Cammack, deceased;

A bill (S. 5274) for the relief of the estate of John H. Seebold, deceased;

A bill (S. 5275) for relief of the estate of Samuel W. Venable;

A bill (S. 5276) for the relief of Rudolph Minton;

A bill (S. 5277) for the relief of the estate of T. J. Pritchett, deceased;

A bill (S. 5278) for the relief of the estate of T. S. Grider, deceased;

A bill (S. 5279) for the relief of Cash Claxon;

A bill (S. 5280) for the relief of the estate of M. G. Horton, deceased;

A bill (S. 5281) for the relief of the estate of William Peach, deceased; and

A bill (S. 5282) for the relief of the estate of M. G. Crossfield, deceased.

Mr. FULTON introduced a bill (S. 5283) for the relief of John T. Rennie; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. PERKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Civil Service and Retrenchment:

A bill (S. 5284) for the retirement of employees in the classified civil service without cost to the Government; and

A bill (S. 5285) to improve the civil service by providing for the retirement of aged, infirm, or otherwise incapacitated employees of the classified civil service of the United States.

Mr. CLAY introduced a bill (S. 5286) for the relief of Mrs. Mary Lloyd; which was read twice by its title, and referred to the Committee on Claims.

Mr. GALLINGER introduced a bill (S. 5287) granting an increase of pension to John M. Prentiss; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. OVERMAN introduced a bill (S. 5288) appropriating $5,000 to inclose and beautify the monument on the Moores Creek battlefield, North Carolina; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the Library.

Mr. FORAKER introduced a bill (S. 5289) to acquire certain ground in Hall and Elvan's subdivision of Meridian Hill for a Government reservation; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. SIMMONS introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5290) granting an increase of pension to James Ramsey;

A bill (S. 5291) granting an increase of pension to E. A. Smith; and

A bill (S. 5292) granting an increase of pension to Michael J. Sprinkle.

AMENDMENT TO INDIAN APPROPRIATION BILL.

Mr. PILES (for Mr. ANKENY) submitted an amendment authorizing the Secretary of the Interior to sell and convey by patent in fee to the Big Bend Transit Company not to exceed 350 acres of land on the Spokane Indian Reservation, State of Washington, for town-site and terminal purposes, etc., intended to be proposed by Mr. ANKENY to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

M. E. THOMAS.

Mr. LODGE submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay to M. E. Thomas the sum of $400 (for indexing hearings had before the Committee on Philippines on H. R. 3) from the appropriation for the expenses of special and select committees of the contingent fund of the Senate.

ENGAGEMENT AT MOUNT DAJO, ISLAND OF JOLO.

Mr. CULBERSON. Mr. President, I desire to offer a Senate resolution, but before doing so I ask the Senate to indulge me a moment in explanation of it.

A few days ago the Senate adopted a resolution directing the

Secretary of War to send to the Senate copies of all official reports and communications between the War Department and officials of the United States in the Philippines, respecting the recent attack by American troops on Mount Dajo. That report has been received. Apparently, though I am not sure about it, there are some omissions. For instance, on page 1 of the report the Secretary uses this language:

Following condensed from Maj. Gen. Leonard Wood.

Apparently indicating that the War Department has condensed the report from General Wood, whereas the resolution called for copies of all reports. So on page 3 of the report there is manifestly an omission from the report made by General Wood in answer to the Military Secretary, shown by stars in the published report we have received.

I therefore offer a resolution broader than the one adopted the other day directing the Secretary of War to send to the Senate full copies of all reports and all other communications which have passed to this date between the officials in the United States and any such officials in the Philippine Islands. The purpose of broadening the resolution is twofold: First, to secure full copies of the reports, which have been made here apparently in a condensed form, and, second, to secure copies of any communications which may have been made by the President of the United States with reference to this matter and subsequent reports which may have been submitted by General Wood. For instance, I noticed in the press a few days ago that General Wood has latterly denied that any women and children were killed, or has certainly denied that all of them were killed. I think it is important, in the interest of truth, if that should be the fact, that we shall have that information here.

My purpose in introducing the resolution is to get all the facts upon this subject within the control of the Government of the United States, so that if the Senate desires to take any action with reference to this matter, it may be done upon full information so far as we have it to this date. I therefore offer the resolution I send to the desk and ask for its present consideration.

The VICE-PRESIDENT. The resolution will be read for the information of the Senate.

The resolution was read, as follows:

Resolved, That the Secretary of War is hereby directed to send to the Senate full copies of all reports and all other communications which have passed to this date between the officials of the United States in the United States and any such officials in the Philippine Islands respecting the recent attack by troops of the United States on Mount Dajo.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. LODGE. I ask that it may go over until to-morrow.

The VICE-PRESIDENT. There being objection, the resolution will lie over until to-morrow.

PROPOSED ISLE OF PINES INVESTIGATION.

Mr. MORGAN. Mr. President, I offer a resolution, and in connection with it and in support of it three affidavits, and also an extract from the Daily Telegraph, published in Habana, Cuba, March 13, 1906. I ask that the resolution be read and that the affidavits and this extract be printed in connection with it and go over for consideration until to-morrow.

The VICE-PRESIDENT. The resolution will be read.

The resolution was read, as follows:

Resolved, That a committee of seven Senators be appointed by the Chair, with instructions to make diligent and careful examination into the condition of the people of the Isle of Pines before and since the enactment of the law known as the "Platt amendment" to the Army appropriation bill, approved the 2d day of March, 1901, and up to the time of the execution of this order and their report thereon.

Such inquiry shall include the form of the so-called "government de facto" in said island, its officers, and by whom appointed, and the manner in which such government has been conducted by those who claim or have claimed to be in authority there since the Army of the United States was withdrawn from the Island of Cuba and the government of that island was turned over to the Congress and people of Cuba.

The committee shall inquire and report whether under such government in the Isle of Pines any official abuses or oppressions have occurred with reference to the people of that island affecting their liberties, their persons, or their schools, their churches, their sepultures, their taxation, their employment or vocation, their property of any description, the registry of their land titles or wills or other conveyancies, their intercourse and trade on the island, or with other ports or places, or with shipping engaged in the trade of the island.

They will inquire and report in respect of any alleged judicial proceedings, civil or criminal, conducted or entertained by any judge, magistrate, or alcalde acting under the laws of Cuba, against any of the inhabitants of the Isle of Pines, resulting in their imprisonment or amercement in fines or forfeitures, and of the places at which such trials were had, and as to the removal of such defendants, by force or compulsion, to any place in the island of Cuba to answer such accusations or prosecutions. And also whether the alleged judicial officers so employed in such proceedings were appointed by the Government of Cuba or of any department thereof.

Said committee will further inquire and report as to the number of American citizens that were residing in the Isle of Pines at the time when the Government of Cuba was turned over to the Congress and people of the Republic of Cuba and before that time, and when the immigration of such citizens into said island first begun.

They will further ascertain and report as to the progress of such immigration, and the classes of people who settled in the island as seekers and builders of permanent homes or places of residence, and the number of such citizens who now reside in the Isle of Pines as permanent settlers; and also what increase or decrease of population and of what citizenship, respectively, has taken place in that island since the evacuation of Cuba by the Army of the United States.

The committee will also examine into the condition of the island as to agriculture, fruit growing, and the extent to which the immigrants from the United States are landowners and cultivators, and whether their crops, orchards, and farm productions, such as cattle, hogs, and poultry, are becoming productive and prosperous.

They will also give descriptions of the topography of the island, its waters and water courses, and its coasts, bays, inlets, and harbors, with reference to navigation; and its roads and bridges and by whom constructed and paid for; its forests and their value; the healthfulness of the island, and the character and conduct of the citizens of the United States who reside there, and, generally, any facts that will inform the Senate as to all material facts concerning the duty of the Government toward the safeguarding, protection, and regulation and control of its citizens who inhabit the Isle of Pines.

2. Said committee is empowered to visit the Isle of Pines, or to designate a subcommittee to visit the same, and to send for persons and papers. Oaths to witnesses may be administered by any member of the committee or subcommittee.

3. The committee is empowered to appoint a secretary, a stenographer, a typewriter, and a sergeant-at-arms, and to pay them their compensation at the rate prescribed by law.

The necessary allowances for travel and board of the committee and its officers and for attendance and the mileage and attendance of witnesses shall be paid on proper vouchers approved by the chairman of the committee, out of the contingent fund of the Senate.

The committee may sit during the sessions of the Senate or during its vacations and at any place in the United States or in the Isle of Pines.

The VICE-PRESIDENT. The resolution will be printed and lie over.

Mr. FORAKER. I ask that it be printed and go over until to-morrow.

The VICE-PRESIDENT. That was the request the Senator from Alabama made. Did the Chair understand the Senator from Alabama to request that the affidavits accompanying the resolution should be printed as a document?

Mr. MORGAN. Printed as a part of and in support of the resolution.

The VICE-PRESIDENT. As a public document?

Mr. MORGAN. I do not care about its being a document for general circulation. I want it for the information of the Senate.

Mr. ALLISON. That will be a public document.

Mr. MORGAN. That will be a public document, I understand.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. MORGAN. And in connection with it an extract from the Daily Telegraph of Tuesday, March 13, 1906, published at Habana.

Mr. FORAKER. I did not hear what the Senator from Alabama said.

The VICE-PRESIDENT. The Senator from Alabama requests that there be printed in connection with the resolution an article appearing in the Daily Telegraph of Tuesday, March 13, 1906, published at Habana, Cuba.

Mr. FORAKER. I request that there be published in connection with the resolution an article which appeared in the New York Sun Monday, March 5, 1906, which I send to the desk.

The VICE-PRESIDENT. Does the Senator from Ohio desire that the article he has just sent to the desk be printed in connection with the public document ordered to be printed at the request of the Senator from Alabama?

Mr. FORAKER. Immediately following the article that is to be published at the request of the Senator from Alabama. If newspaper articles are to cut any figure in this matter, we can fill the RECORD full of them. This is only a specimen of a hundred I could send to the desk.

Mr. MORGAN. The Senator, who is probably opposed to the resolution, when it comes up could either undertake to meet it by offering testimony in contradiction of it or in support of his position. But the Senator can have his sweet way about it. I have no objection.

I will offer in this same connection a letter from Mr. Fries, a very distinguished attorney of Cincinnati, and ask that it be also printed in connection with the resolution.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Alabama?

Mr. FORAKER. That is a letter from Mr. Fries. Has the Senator one from the chief justice of the Republic of the Isle of Pines, who also resides at Cincinnati when he is at his home?

Mr. MORGAN. We will not discuss letters here this morning, if the Senator will excuse me.

Mr. FORAKER. I shall be very glad to discuss them this morning or at any other time. I sent the newspaper article to the desk only to illustrate in a practical way that what appears in one newspaper may be easily offset by what appears in another newspaper. I apprehend that when we determine this very important matter it will not be determined upon what somebody has seen fit to cause to be published in newspapers, but upon information that we obtain in a proper way and which we know is reliable. Every day there is something appearing in the newspapers that might be quoted first on one side and then on the other. My only purpose was to show that there are two sides in the newspapers to this controversy.

Mr. MORGAN. I offered what I have sent to the desk—the three affidavits and the newspaper extract—for the purpose of supporting my resolution. The Senator from Ohio has seen proper to offer something that I suppose he thinks is against the resolution. It is a very unusual proceeding, sir. I merely ask that the papers be printed in connection with the resolution.

Mr. FORAKER. And I merely ask that my newspaper article be printed along with the rest of them.

Mr. MORGAN. That is all right. I consent to that, and anything else the Senator wants to put in.

There being no objection, the matter was ordered to be printed as a document, and to be printed in the RECORD, as follows:

NUEVA GERONA, ISLE OF PINES, W. I.,
March 1, 1906.

Maj. J. E. RUNCIE,
Habana 58, Habana, Cuba.

DEAR SIR: We, the undersigned committee, were appointed at a mass meeting of the American residents of the island to confer with you in regard to the case of A. E. Moerke, of Columbia, Isle of Pines. We inclose herewith his letter to the American minister, dated February 22, which was sent to him by the boat on that date, and as yet he is without an answer. The authorities here have been feeling around offering some sort of a compromise to Moerke, but he prefers to take his medicine until the minister replies to his request for a release.

At the mass meeting held here to-day many thought it best to seek his release, hence this committee was appointed to confer with legal advice and be guided by that advice. This committee has procured all the additional facts possible, and submit them below:

On Wednesday morning, February 21, five rural guards came to Mr. Moerke's place of business and demanded $100 cash bond, or they would arrest him and take him to Nueva Gerona. Mr. Moerke refused to put up the cash bond, and also explained to the guard that this being mail day that his duties as postmaster required him to be on hand upon the arrival of the boat and transport the mail from the dock to the post-office at Columbia, of which he is postmaster. Thereupon they arrested him, but promised to let him return in time to permit him to attend to the mail. After arrival at Nueva Gerona, instead of taking him before the judge, he was taken to the Cuban jail under the pretense of reporting to the captain of the guard, and he was thereupon locked up, and was not taken before the judge until 2 o'clock p. m. of same day. The first and only question asked him by the judge was: "Do you recognize my authority as judge of the Isle of Pines?" To which Mr. Moerke replied: "Under the circumstances and the present status of the Isle of Pines, I do not consider that you have any legal authority on this island." Whereupon the judge became furious, and stated that he would fine him $100 and fifty days in jail; that he would teach the Americans to acknowledge his authority; but after cooling down somewhat he changed the fine to $50 cash or fifty days in jail, and asked Mr. Moerke which he would accept. Mr. Moerke replied that he would not pay the fine, and at the judge's order he was incarcerated in the Cuban prison. During all of these proceedings nothing was said to him to indicate why he had been arrested or why he was fined for contempt of court other than for the language above quoted.

The second day after his incarceration six rural guards, by order of the judge, went to Mr. Moerke's place of business at Columbia, and, as Mrs. Moerke was there alone, she refused them admittance. The neighbors came to see what was being done and witnessed the guards with guns cocked force themselves into the store department of the building, and removed all merchandise therefrom, and not being satisfied with the amount found therein, demanded entrance into the living departments of the same building, which was refused by Mrs. Moerke, she stating to the guards that the door she was guarding was the door to the post-office, through which they had to pass to reach their living rooms. In spite of refusal and information, they persisted, with their weapons again cocked, forced their way into the post-office and living rooms, carrying off, among other effects, a sewing machine, being the personal property of Mrs. Moerke, notwithstanding the fact that they were shown the evidence that same was her property. This seizure was made without due process of law and while Mr. Moerke was illegally detained in jail.

Mr. Moerke telegraphed to the Postmaster-General that he was prevented from his official duties as postmaster and referred the Postmaster-General to the Postal Code, article No. 31, requesting him to advise, since which he has nothing from him. These are the facts presented for your consideration and advice as to what procedure is necessary to bring about the best results for the cause for which we are all working, Mr. Moerke being willing to do whatever is necessary.

Yours, respectfully,

JAS. M. STEERE,
CHARLES REYNARD,
R. P. EWING,
Committee.

The above letter, written by a committee, of which I was chairman, appointed to investigate the arrest and imprisonment of Postmaster Moerke, of the Columbia post-office, to Major Runsie, of Habana, for the purpose of obtaining legal advice upon the subject, contains the truth concerning all the circumstances as we ascertained them to be after an impartial investigation.

JAS. M. STEERE.

DISTRICT OF COLUMBIA,
Washington, D. C., ss:

Personally appeared before me, James M. Steere, of the Isle of Pines, who, first being duly sworn, deposes and says that the above letter and his statement following are true in all essential facts, according to the best of his personal knowledge and belief.

[SEAL.] BENJ. VAIL, *Notary Public.*

IN JAIL, NUEVA GERONA, ISLE OF PINES, W. I.,
February 22, 1906.

Hon. Mr. MORGAN,
United States Minister to Cuba, Habana, Cuba.

DEAR SIR: As a law-abiding citizen of the United States I hereby appeal to you to take the necessary steps in my behalf in having me released from this Cuban prison. I was placed here by a Cuban judge under the charge of contempt of court, my sentence being a fine of $50 or fifty days in jail.

The facts which have led up to this state of affairs I will briefly state, as follows: I came here from the State of Iowa, and located at Columbia, Isle of Pines, upon the assurances of the War Department that this was and would remain American territory. Have opened a small store, selling a stock of general merchandise, and have paid the tax or license, which is very heavy, up to the 1st of last July, but when the Cuban Government added to my license 30 per cent for the purpose of paying off the bonds issued for the payment of their Cuban soldiers I refused to pay any part of same, as my understanding is that General Wood had a distinct understanding with the Cuban Government that the Isle of Pines would remain as a de facto government until the United States took charge of same. In fact, I maintain that under the Platt amendment and under the Cuban constitution they have no rights on this island. They have tried in many ways to make me pay what I firmly believe I have no right to pay and what I believe they have no right to make me pay.

My place of business is 6 or 7 miles from this place, and last Monday I was summoned to appear before the judge here. I came at the appointed hour and waited some time to see the judge, but could not get any satisfaction as to the time he would see me, and as I had important business to attend to at home, being the postmaster at that point for the Cuban Government, hence an officer of that Government, I could not wait longer, and went back to my home and business. The next morning the rural guards arrested me and brought me to this place and placed me in jail to await the pleasure of the judge. At 2 o'clock I was taken through the streets of this town to the court and was sentenced without a trial to a fine of $50 or fifty days in jail.

If you have ever visited a Cuban jail or even seen their "bill of fare," you will know what I am suffering, to say nothing of the humiliation of being obliged to submit to such punishment from such a source, especially when I know they have no rights that entitle them to inflict this punishment on an American citizen. Had I committed any criminal act there might be some excuse for my incarceration, but simply because I could not wait all day for his pleasure to see me he inflicts this unheard-of fine. Had he sent again for me and stated the time he would see me I would have accommodated him, even at considerable inconvenience to me. In fact, I have never been informed why I was summoned, and can only surmise it related to my nonpayment of their demand for license. They have never expended a centen for the benefit of this island, and many owners of vehicles are refusing to pay taxes on their vehicles until the Cuban Government does something for the betterment of the roads and bridges.

I trust that you will make or cause to be made an investigation of my case at your earliest possible moment, before any more of my fellow-citizens are subject to such outrageous treatment.

Yours, very respectfully,

A. E. MOERKE.

WASHINGTON, D. C., *March 22, 1906.*

To the Senate of the United States:

Your petitioner, James M. Steere, formerly a citizen of Texas, living in what he believes to be American territory, is constrained to apply to your honorable body for such relief as may be in your power to grant. Your petitioner has lived with his family in the Isle of Pines, which he was led to regard as American territory through the representations made by officials of the War and other Departments of the United States Government for a period of the year passed. Prior to that time, although now 61 years of age, he has never been summoned to any court or been under arrest for any criminal act. He served honorably and with distinction as a Union soldier in the civil war. He was discharged in 1862 under a surgeon's certificate of disability, but was reenlisted in 1864 after partial recovery as regimental commissary-sergeant on the understanding that his physical condition would permit him to do clerical work. He then served to the end of the civil war. He has been entitled to a pension for the past forty years, but never even made an application for the same, not wishing to become a pensioner as long as he was able to earn his own living.

Since the war time he has held many responsible and honorable positions, filling at one time or another the positions of secretary and treasurer of the Missouri Iron Works, of St. Louis; agent of the Canada Southern Fast Freight Line for nine consecutive years, and assistant general freight agent of the Gulf, Colorado and Santa Fe Railway, a part of the system of the Atchison, Topeka and Santa Fe, for eight years. During the time that he was assistant general freight agent, he was appointed assistant adjutant-general of the Department of Texas, Grand Army of the Republic. He was the general agent for the Kansas and Texas Coal Company for Texas and Mexico. He was president of the Republican League Club of Dallas, Tex., for several years, and was the representative of the Sixth Congressional district on the Republican State central committee of Texas for several years. He was induced to go to the Isle of Pines on account of his health, mainly through the alluring description of the island sent out under the auspices of the War Department and the letters of that and other Departments sent out to the effect that the Isle of Pines of right was and would be continued as American territory.

Notwithstanding his unblemished character and services and his eminently peaceful and quiet demeanor at all times, he has been forced to abandon his home and property in the Isle of Pines and flee to the United States to escape a Cuban prison for no offense that would be recognized in any civilized country as worthy of even a jail sentence of a few days in duration. He has dutifully complied with all reasonable orders of the Cuban courts, but is now unwilling to serve a term of from three to six years in a Cuban prison at his advanced time

of life and in his present state of health on a charge of malversation of public property which he has turned over to the Isle of Pines court as ordered, and so far as he knows, is now in their possession. Such in the sentence he firmly and truly believes awaits him in Habana if he answers in person to the summons which he has received, and which he has been informed is simply the prologue to a severe penalty of imprisonment which has been determined on in advance of his trial. He truly believes that this persecution from the Cuban authorities is due mainly to his recent prominent part in the mass meetings of American citizens in the Isle of Pines held for the purpose of securing an American government in the island if possible. Following is a translation of the summons which warned him that he would have to flee the country or be imprisoned without cause:

"Señor JAMES A. STEERE (case No. 3906):

"By order of the judge you are cited to appear on the 28th of the present month before the second division of the first criminal court of the district of Havana, for the purpose of answering as defendant in open court in the case numbered on the margin, brought against you for the malversation of public property. You are advised to present yourself or give sufficient reason as to what prevents and show cause therefor.

"Nueva Gerona, March 6, 1906; given at 2 p. m.

"JOAQ. F. ALCAZAR, *Clerk of the Court.*"

Statements which recently appeared in the Havana Telegraph of the date of March 13, a newspaper published in the city of Havana, were to the effect that the Cuban rural guard, in the Isle of Pines, had orders, seemingly from the Cuban secretary of state, to shoot down all Americans who offered the slightest resistance or provocation to the high-handed procedure of the Cuban authorities, or who should commit any act against Cuban sovereignty. On account of this and many other threats in La Lucha, another Cuban newspaper published in the same place, as well as on account of other statements by hot-headed Cubans, both in Cuba and on the Isle of Pines, many Americans are leaving the island, especially women and children, who are thus obliged to abandon their homes and their property.

A clear statement of the facts which lead up to the interference of the Habana courts in my case in the Isle of Pines may be had from the following letters written by me to Edward P. Ryan, at Washington, D. C., who was elected as a delegate to represent the Isle of Pines settlers at the capital of the United States:

NUEVA GERONA, ISLE OF PINES,
January 20, 1906.

Mr. ED. P. RYAN, *Washington, D. C.*

DEAR SIR: Since writing you last I have had a little case of Cuban justice, which I will truthfully explain below. The Palace Hotel, as you are aware, got into financial difficulty, and its creditors had to go into court to obtain their just dues. When judgment was obtained each creditor had the privilege of taking sufficient goods or articles as they thought would cover the amount claimed. These were seized by the court and removed from the hotel to a place of storage awaiting the time to elapse for a public sale.

One of Mr. Pearcy's houses was selected and a verbal agreement made with the court officers that the storage for each lot of goods taken from the hotel would be 50 cents per day. I was made the custodian of the goods for safe-keeping. There were two lots placed in the rooms at different dates by the court, and after the sale of the first lot the court demanded delivery, which I made. After which I asked for the rent due for the storage, amounting to $10.50. The clerk of the court gave me to understand that it was all right and that I would get the money "mañana." This in English means "to-morrow," but it seems to have no meaning in the Cuban vernacular. The first lot was delivered on December 21, and when the court demanded the delivery of the second lot, January 15, the first bill for storage was still unpaid. Hence I refused to deliver the second lot until the agreement had been complied with regarding the first lot. I agreed, however, if the judge would promise me that the bills would be paid at some definite date, that I would deliver them, but as he would not give me any satisfaction I flatly refused to give up the goods. The municipal judge thereupon had me arrested and taken before the next higher court on a criminal charge of withholding goods belonging to the court.

This higher court, after going through a lot of irrelevant red tape, evidently to impress me with the dignity of the court, stated to me the charges, to wit, for withholding from the municipal court the goods of which it had placed me in custody. I replied that it was a fact and that I proposed to hold them until I could get some satisfaction for the rent incurred, for which I was held responsible. The judge stated that I could not hold the goods for that purpose. I then asked him if the municipal court was part of the Cuban Government. He replied "Yes." I then asked if the custom-house was also a part of the Cuban Government, eliciting the same reply. I then stated to him that it was impossible for us to get a single package from the custom-house warehouse, even though the same was in a dilapidated, leaky condition, without paying every cent of storage due on it. He said that was different, but still insisted that I could not hold these goods for the storage charges. He said, however, that if I would deliver them and then present my bill to the municipal court he would see that the bill was paid, and further stated that all proceedings in the present case would be stopped. To this I consented, and then delivered the goods in question. I presented the bill to the municipal judge and he would not receive it; hence I took it to the higher judge, and much to my amazement and chagrin he stated that I would have to look to the parties that instituted the suits against the hotel and not to the municipal court. What do you think of that for chicanery?

Well, yesterday I received another notice from this higher judge to appear at his office this morning at 9 o'clock or be subject to a fine. I went there and was told by the clerk that as these proceedings had been commenced it would be necessary for me to appear at his court every Monday morning until the case was disposed of in Habana. I expressed my surprise at this new phase of annoyance and humiliation after the distinct understanding of the day before that all proceedings would be dropped if I would give up the goods. But in order to assist them in disposing of the case I decided that I would consent to come to the court every Monday morning. To this agreement I had to sign my name. After this was done and I was preparing to leave the court room I was requested to sit down, and then the clerk stated that it will be necessary for me to give a $100 bond in cash. I then saw the nigger in the wood pile, which was nothing more nor less than to get another whack at an American's money. This I refused to do, as I was not prepared to do so. He then stated that if I would declare that I had no property I could get two responsible residents to go on my bond. I told him that I had property and that I would let him know later in the day whether I would or would not give bond. I thereupon consulted with some of the best citizens of the island, and they said that I had done enough, and advised me to so notify the judge and they would stand by me to the last. I therefore went to the court prepared to tell the judge, and after waiting for half an hour I asked the clerk for permission to see the judge, as my office was locked up and I was anxious to get back. His reply was, in a most insulting tone, that if I could not wait to get out. There was no business before the judge at the time, and he could have seen me without any trouble; but they desire to make themselves very officious, especially to Americans. Such is the gratitude of the Cubans, for whom the Americans have done so much without appreciation. In fact, it seems to be the delight of Cubans to take all the advantage possible of the American population. I do not know what the result may be in this matter, but presume they will send me to jail for attempting to do my duty. But some day these Cubans will go a little too far, and there are now too many Americans on this island to fool with, and God pity them when that time comes.

Yours, truly,

JAMES M. STEERE.

[Letter No. 2.]

NEUVA GEROME, ISLE OF PINES,
January 24, 1906.

Mr. ED. P. RYAN,
308 East Capitol street, Washington, D. C.

DEAR SIR: Since writing you on the 20th instant I have been subjected to all kinds of persecution at the hands of the judge of the court of first instance. He has tried every way to get hold of some of my money, so that Cuba can keep her wheels greased. I have been obliged to put all my property out of my hands even to the necessary household goods, as I am informed that it is their intention to cause me all the annoyance possible on account of my connection with the movement to have the United States assume possession of their own property.

This is only a reflection of the position advocated by the honorable Secretary of State and it is bearing early fruit. The former judge, Delago, was bad enough for the Americans, still he did occasionally use a little judgment and ignored a few cases as too insignificant, hence he was removed, and another judge sent here for the distinct purpose of prosecuting Americans to the fullest extent possible under the peculiarities of Cuban-Spanish laws. This is evidenced by the Cuban paper La Lucha, which gave the new judge great credit in its last Sunday edition for his punishment to be inflicted on one of the so-called "new government officials" (meaning myself). This article was inspired before I was aware of any further proceedings growing out of my attempt to protect myself in the responsibility of collecting the rent for the goods held in storage for the municipal court. This is all the wrong that I have done, and as soon as the judge informed me that I could not hold the goods for the rent, as agreed to by the court that placed me in charge, I delivered them with the distinct understanding that he would assist me in collecting the rent due and would drop all these proceedings. After they recovered the goods by this ruse, proceedings have been continued and every effort made to make me give $100 bond, for the sole purpose of tacking on all kinds of costs and taking it out of the deposit. I am now told to-day that the case is to be continued in Habana, thus compelling me to go to the expense and annoyance of going there and hiring a lawyer to plead my case.

It is, of course, useless to appeal to the American minister in Habana on account of this unjust and uncalled treatment, as his attitude in the past has in nowise operated to stop persecution. Can not you get some Senator to take up this case and prevent this farce from proceeding further? I am not able to go to Habana or employ a lawyer to represent me. Hence the probabilities are that there will be a very heavy fine imposed in addition to numerous court costs, and if this is not paid by me on presentation I am liable to be cast into a Cuban prison, and if such should be the result there is no telling what the American residents might do, as these whole proceedings are so foreign to American justice they will not stand for it, and it would result in further complications for our cause. Quick action is necessary. I have given you the whole facts in my two letters. Every other nation protects its citizens, why should not ours do likewise? It does seem to me that there are some patriotic citizens in America that are more considerate of their fellow-men than to abandon them to persecution. I have always been a law-abiding citizen of the United States and can give all the references necessary to back up this assertion. I am 61 years of age and never was called into a court of justice before in my whole life, and have always held positions of honor and trust. I have always admired President Roosevelt, but I regret to see that notwithstanding his promise to carry out the policy of our late lamented William McKinley he appears anxious to deliver this possession of the United States to a people that are not fit to govern themselves, and also that he will tolerate a Secretary of State who does not stop them from persecuting us to the limit. They did not need this liberty, as they were already making it as uncomfortable for Americans as they possibly could, instead of being grateful to us for giving them their liberty—in fact, like itself. Spain would have annihilated them in a few months longer had not the United States taken up the fight for them. But this is digressing. In support of my assertions in regard to my previous conduct and character, I take the liberty of referring to Mr. W. W. Finley, of Washington, D. C., vice-president of the Southern Railway. He has known me for many years. I also refer you to the Hon. JOSEPH W. BAILEY, Senator from Texas.

It is generally understood here on the island that the present treaty is likely to be hung up indefinitely, and if this is the case something must be done to relieve the tension on the Americans here. They demand that as a safeguard to their peace and liberty the Congress of the United States send us a governor until it is fully determined what is to be done with the island. From all that I can gather the Americans will not be satisfied with amendments that will carry with them Cuban possession. It will create more friction than the Anglo-Saxon race will stand, and it is better for all concerned to have American rule pending further negotiations.

Yours, truly,

JAMES M. STEERE.

[Letter No. 3.]

NUEVA GERONA, ISLE OF PINES, W. I.,
March 5, 1906.

Mr. ED. P. RYAN,
No. 308 East Capitol Street, Washington, D. C.

DEAR ED.: Referring to my letters to you under date of January 20 and 24, in regard to the continuance of the proceedings against me for

trying to collect the rent due for storage on the goods held for the municipal court, I am advised to-day that the court at Habana has notified this judge here to notify me that it will be necessary for me to appear in Habana on the 28th of this month, or be subject to an additional fine. This is going to place an additional hardship on me, and as I delivered these goods as soon as the judge here explained that I could not hold them for the storage charges and also agreed to see that the bill for the same was paid, and that he would drop all these proceedings, I can not see why I should be persecuted further. Neither can I see where the Cuban Government can compel my presence in Cuba for any offense committed on the Isle of Pines, as their constitution does not apply to this island until the treaty now under consideration is ratified. It seems to me, however, that they are doing as they please, without any action of the United States to the contrary. I certainly do not feel called upon to go to Habana, as the Cuban authorities have obtained all they were contending for—the possession of the goods without paying one cent of the storage charges, which are still unpaid, notwithstanding the promise of the judge to see that I got the money. I have reported to the court every Monday morning according to my promise to do so. I can not afford to get tangled up with these Cuban courts even though I know that I am right, without some backing from my own Government. It is the delight of these Cubans to soak an American at every opportunity, and this is a fair sample of their idea of justice.

American residents are becoming very restless at the condition of things in general, and some action should be taken at Washington before it becomes unbearable, and thus save trouble.

Yours, truly, JAMES M. STEERE.

As a remedy for the evils above set forth, your petitioner suggests that a committee of the Senate be appointed to make a complete examination on the ground and also in Cuba of the present conditions in the Isle of Pines and to report the same for the future action of your honorable body. The same committee should also report to the Senate what is the proper final disposition to make with regard to the title to the sovereignty over the island. He advises these steps because under present conditions some act of oppression at any moment may cause riot or bloodshed on the island, which would, in my opinion, reopen the entire Cuban question and involve the citizens of the United States in filibustering expeditions, coupled with rebellion and civil war in Cuba. The conditions at present are charged with dynamite and must be taken in hand at once to avoid endless complications.

JAS. M. STEERE.

DISTRICT OF COLUMBIA, *ss:*

Personally appeared before me James M. Steere, of Nueva Gerona, Isle of Pines, West Indies, and after being duly sworn deposes and says that all the facts alleged in the above petition to Congress and in the letters to Mr. Ryan embodied therein are true and correct to the best of his personal knowledge and belief.

Subscribed and sworn to before me this 22d day of March, A. D. 1906.

[SEAL.] BENJ. VAIL, *Notary Public.*

DISTRICT OF COLUMBIA, *ss:*

James M. Steere, first being duly sworn, deposes and says that he is a resident of the Isle of Pines and that he has been a resident of that island for the past year; that he was present when a committee was recently appointed at a mass meeting of American citizens at Nueva Gerona, on the Isle of Pines, March 1, 1906, consisting of R. P. Ewing, Driver Fullton, and E. C. Rogers, with such assistance as might be needed, to take a census of the people living on the island, without in any way interfering with the rights of any person resident on said island. It was deemed necessary that such a census should be taken in order that the truth should be given to the Senate of the United States and to the world regarding the continued and persistent misstatements to the effect that only a few land speculators from the United States held property on the island and that the great majority of residents and property owners were Cubans. Particular instructions were given to the members of this census committee to ask no questions of individuals in the course of their census taking which might offend Cuban sensibilities. Each member of the committee, it was understood, knew in a general way the number of people in each household of the district he was assigned to. The Cubans, however, discovered the personality of two of the committee, namely Messrs. Driver Fullton and H. A. Mayer. Fullton was arrested, and after being threatened by the alcalde with imprisonment if he persisted in taking the census, was allowed to go. He feared subsequent proceedings and left the island.

As regards Mr. Mayer, more stringent measures were attempted. The assistant alcalde, accompanied by a Cuban rural guard, went to his home and made threats of arrest, and during the argument which followed it was stated by Mr. and Mrs. Mayer that the assistant alcalde used toward Mrs. Mayer a grossly indecent apithet. This caused Mayer to threaten to break the assistant alcalde's neck, but fearing the Cuban law, which is usually administered in the Isle of Pines so as to convict the American and allow the Cuban to escape, he desisted in assault on the offender.

Mr. Mayer afterwards had the assistant alcalde arrested for insulting his wife, but when the case was brought up for trial the court refused to allow either Mayer or his wife or his brother-in-law, who was present, to testify as to the insult, on the ground that the Cuban law does not allow interested parties to testify in criminal cases. There being no accusing witnesses who would be allowed to testify, the assistant alcalde was triumphantly acquitted, while Mr. Mayer was fined $5 for bringing a case against an official or else for attempting to take a census. No reason was given for imposing the fine.

This outrage has greatly incensed Americans living on the island, who, under all conditions, respect their wives and mothers, and it is liable to cause future trouble and perhaps bloodshed. It is needless to call attention to the fact that Americans will not long submit to this kind of law administered, as it is always, in favor of the office-holding Cuban classes.

JAS. M. STEERE.

DISTRICT OF COLUMBIA,
City of Washington, ss:

Personally appeared before me James M. Steere, of Nueva Gerona, Isle of Pines, West Indies, and made oath to the foregoing on this 22d day of March, A. D. 1906.

[SEAL.] BENJ. VAIL, *Notary Public.*

[From the Habana Daily Telegraph, Tuesday, March 13, 1906.]

ON ISLE OF PINES—SAID THAT AMERICANS THERE HAVE DECLARED INDEPENDENCE.

The following note was yesterday given out to the press by rural guard headquarters:

"The chief of the detachment of the rural guards on the Isle of Pines sends word that a group of Americans residing in the island have met and decided to declare the island independent of Cuba, and the person presiding at the meeting undertook to communicate what had been done to the administrator of customs there."

A representative of the Telegraph called upon Secretary Freyre de Andrade to inquire if he had received any further details regarding the matter, but the secretary said he had not, and treated the report as of no consequence whatsoever.

Governor of the province, Gen. Emilio Nuñez, was also called upon, and also said that he had heard nothing whatsoever regarding the matter beyond the rural-guard report. The governor said that there was no particular alarm in the adoption of such resolutions as long as they were not acted up to, and that the collector of customs on the isle would probably show no resentment when informed of them.

The governor said, however, that heretofore the Cuban Government had not insisted on the payment of taxes on the island, but had now started in to collect them. He considered the amendment to the Isle of Pines treaty, presented by Senators BACON and SPOONER, an impossible proposition, as, in his opinion, its enactment would require a radical change in the Cuban constitution, which provides for only six provinces and no territories. The governor did not, however, think that any serious trouble was imminent on the disputed islet.

Señor Villalon, of Secretary Freyre de Andrade's department, seemed to take the thing more seriously than his chief, and when asked about it by another reporter of the Telegraph stated that the rural guards had received instructions to shoot the Americans the moment the latter should commit any act of rebellion against Cuban sovereignty.

As there is now wireless communication between Cuba and the isle it is safe to say, however, that nothing of any moment occurred when the chairman of the territorialist meeting handed in his chestnut.

[The Sun, Monday, March 5, 1906.]

ON THE ISLE OF PINES—AN AMERICAN WHO FAVORS CUBAN GOVERNMENT.

To the Editor of The Sun.

SIR: It is the business of a little band of political agitators and land boomers on this end of the Isle of Pines to meet all American tourists and to keep their minds occupied with harrowing tales of Cuban atrocities and with stories of profits which would be sure to accrue to all holders of island real estate should Uncle Sam drive the "hated" Cubans off the island. Of course all this is more or less entertaining to the tourists, that depending chiefly upon their digestive organs, and has earned for the boomers the expressive appellation of "that crowd."

The statement is made in the literature sent out by the would-be revolutionists that it would be humiliating to a great degree for the Americans here to be governed by "an inferior people." I can say as missionary pastor here that I have failed to discover such inferiority. True, there are people here of a low order of civilization, but in any comparisons which may be made one must take into consideration the disadvantages under which these poor people have been by way of education, etc. It must be distinctly understood, however, that this is not the class which does the governing.

I number among my friends no more courteous or obliging gentlemen than the Cuban officials on the Isle of Pines. They rank with our best class of American citizens, and when compared with those who would belittle them, in education, integrity, courtliness of manners, and good citizenship, the superiority of the Cubans is quite apparent.

I wish to appeal to the sense of honor and Christian charity of the American people in making their decision upon this Isle of Pines affair. The Cuban people believe the American people to be their friends. They do not believe that "La Gran Republica" could perform one of the grandest acts in the history of any nation—that of fighting and winning a victory for a downtrodden people—and then say to them: "Your country is yours; work out your political salvation and we will help you in such ways as may seem advisable to maintain your government as an independent republic," for selfish reasons. No; the Cuban people believe in the American people and in their high ideals. They do not believe that that august body, the great American Senate, will permit the great injustice to be done them of taking from them this little island, which never could be of any real benefit to our Government, but which would be a bill of expense continually.

In looking for ideals to weave into the social fabric of Cuba, her people look for the best that is to be had from their friends of the great Republic, and if Cuba is to construct a government which will stand, she must do so on the foundation that has withstood the onslaughts of time, upon truths which are as eternal as the heavens, because they are of God who is eternal; upon an abiding faith in the Lord Jesus Christ as the Savior and character builder for the human race, knowing that great governments are but the reflex of national character, and can be had in the smallest republic as well as the greatest.

For a working example of such a government it is natural that the Cuban people should look to their benefactor, the United States of America, whose statesmen have for the most part been actuated by the thought and sustained by the idea that unsullied reputation in the individual is the first great step toward national greatness.

KENNETH M. DEDRICK.

NUEVA GERONA, ISLE OF PINES, *February 22, 1906.*

WASHINGTON, D. C., *March 22, 1906.*

DEAR SENATOR MORGAN: As requested, I give you a list of such persons interested in the Isle of Pines who are from Cincinnati and vicinity. I have only included such as are personal friends and neighbors; there are many more with whom I am not personally acquainted—in all about 100—they are all small landholders who invested under the belief that the island would remain under the jurisdiction of the United States. At present some of them are residents on the island, some have their representatives there who are getting their land under cultivation, planting orange groves, etc., and all hope at some time to make the island their permanent winter home.

To the most of them the ceding of the island to Cuba would fall as a great calamity. Many of them have invested the savings of years, believing they were preparing a winter home in this delightful climate under the American flag in which to spend their declining years.

Admitting that they had no right to accept the assurances of Assistant Secretary of War, Governor-General Wood, and other officials of this Government, as intimated in the majority report of the Committee on Foreign Relations, the fact remains that they have done so and stand to suffer considerably by this change of front on the part of this Government. We therefore, as American citizens, demand the most earnest consideration of the question before action is taken on the proposed treaty, believing that a way can be found out of this difficulty which will work no such injustice as would result from the proposed action.

Yours, respectfully, ARCHIBALD FRIES.

	Acres.
Lewis N. Gatch, attorney	200
Rev. H. T. Crane, minister	200
R. H. Bishop, retired merchant	100
Miss Willa H. Spillard, teacher	10
Miss Edna M. Spillard, teacher	10
Miss Sarah V. Spillard, teacher	10
Miss Edith Crane, teacher	10
Miss Ida T. Smith, teacher	50
Mr. George Smith, laundryman	50
Mr. Forest Nelson, farmer	100
Mr. Frank Nelson, farmer	100
Mr. Frank Rothenhoafer	500
Dr. G. S. Junkerman, dentist	80
Mrs. Guido Kemper, widow	80
Mr. Henry Ransom, merchant	40
Mr. George W. Losh, merchant	100
Mr. Thomas Earhart, lumberman	50
Mr. Frank J. Norris, stenographer	40
Mr. Arthur Shubert, clerk	40
Mr. William Shubert, clerk	40
Mr. A. Burkhart, bookkeeper	40
Mr. William Durham, retired merchant	40
Mr. George Durham, farmer	250
Mr. Ernest Fries, attorney	100
Mr. Albert N. Fries, laundryman	100
Mr. Archibald Fries, freight agent	300

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On March 16:

S. 3288. An act to authorize the Pennsylvania Railroad Company and the Pennsylvania and Newark Railroad Company, or their successors, to construct, maintain, and operate a bridge across the Delaware River; and

S. 4128. An act permitting the building of a dam across the Red Lake River at or near the junction of Black River with said Red Lake River in Red Lake County, Minn.

On March 19:

S. 51. An act to create a juvenile court in and for the District of Columbia;

S. 589. An act granting a pension to Joseph L. Prentiss;

S. 675. An act granting a pension to Ulrika Bottcher;

S. 772. An act granting a pension to Jerusha Hayward Brown;

S. 2044. An act granting a pension to Solomon F. Wehr;

S. 2080. An act granting a pension to Ruth F. Bennett;

S. 2735. An act granting a pension to Marcelina S. Groff;

S. 2968. An act granting a pension to George W. Hale;

S. 3125. An act granting a pension to Parthenia W. Baker;

S. 3187. An act granting a pension to John Harper;

S. 3224. An act granting a pension to Nancy A. Teeters;

S. 3312. An act granting a pension to Oscar F. Renick;

S. 3626. An act granting a pension to Catherine Coyle;

S. 3721. An act granting a pension to Mary C. Morgan;

S. 4227. An act granting a pension to John H. McKenzie;

S. 4280. An act granting a pension to Aurelia Cotten;

S. 17. An act granting an increase of pension to Levi A. Tripp;

S. 19. An act granting an increase of pension to Alphonso B. Holland;

S. 22. An act granting an increase of pension to Andrew Smith;

S. 94. An act granting an increase of pension to Albert Wines;

S. 162. An act granting an increase of pension to David D. Griffith;

S. 165. An act granting an increase of pension to Henry Russell;

S. 180. An act granting an increase of pension to Joseph W. Legro;

S. 187. An act granting an increase of pension to James H. Kane;

S. 200. An act granting an increase of pension to Frederich Behrens;

S. 203. An act granting an increase of pension to Edward E. Needham;

S. 218. An act granting an increase of pension to James White;

S. 220. An act granting an increase of pension to Jonathan F. Gates;

S. 251. An act granting an increase of pension to Martin L. Adams;

S. 325. An act granting an increase of pension to Henry B. Burton;

S. 446. An act granting an increase of pension to Mary C. Duane;

S. 466. An act granting an increase of pension to James H. Lewis;

S. 482. An act granting an increase of pension to Amos M. Runkel;

S. 492. An act granting an increase of pension to Barney Whitney;

S. 527. An act granting an increase of pension to Alfred McPherran;

S. 548. An act granting an increase of pension to William Carr;

S. 555. An act granting an increase of pension to Henry H. Hill;

S. 597. An act granting an increase of pension to David M. Pearson;

S. 599. An act granting an increase of pension to Mary A. Megrue;

S. 623. An act granting an increase of pension to Bridget Evans;

S. 641. An act granting an increase of pension to James M. Conrad;

S. 655. An act granting an increase of pension to Charles E. Bishop;

S. 656. An act granting an increase of pension to Abraham Walters;

S. 672. An act granting an increase of pension to James F. Hubbard;

S. 671. An act granting an increase of pension to Charles Conine;

S. 712. An act granting an increase of pension to Lizzie M. McLauchlan;

S. 716. An act granting an increase of pension to Theodore H. Hanson;

S. 721. An act granting an increase of pension to Orange S. Mason;

S. 725. An act granting an increase of pension to William M. Smith;

S. 784. An act granting an increase of pension to George L. Cooley;

S. 790. An act granting an increase of pension to William Benkler;

S. 836. An act granting an increase of pension to Charles A. Fay;

S. 842. An act granting an increase of pension to William A. Eggleston;

S. 859. An act granting an increase of pension to Richard T. Fried;

S. 861. An act granting an increase of pension to Thomas O'Connor;

S. 969. An act granting an increase of pension to Howard Ellis;

S. 1011. An act granting an increase of pension to John E. Woodsum;

S. 1023. An act granting an increase of pension to Peter Shippman;

S. 1130. An act granting an increase of pension to Isaiah Mitchell;

S. 1138. An act granting an increase of pension to Albert S. Blake;

S. 1173. An act granting an increase of pension to James M. Fernald;

S. 1227. An act granting an increase of pension to Henry J. Patterson;

S. 1228. An act granting an increase of pension to Julia L. Plimpton;

S. 1230. An act granting an increase of pension to Eugene Gaskill;

S. 1246. An act granting an increase of pension to William F. Wilson;

S. 1251. An act granting an increase of pension to Peter Burns;

S. 1273. An act granting an increase of pension to Eleanora A. Keeler;

S. 1357. An act granting an increase of pension to Orlando C. Pinkham;

S. 1399. An act granting an increase of pension to Henry Jordan;

S. 1418. An act granting an increase of pension to Levi E. Cross;

S. 1420. An act granting an increase of pension to Sarah A. Tyler;

S. 1421. An act granting an increase of pension to Harvey C. Brown;
S. 1437. An act granting an increase of pension to William F. Davis;
S. 1527. An act granting an increase of pension to John M. Odenheimer;
S. 1555. An act granting an increase of pension to Mary C. Bishop;
S. 1624. An act granting an increase of pension to Peter Betz;
S. 1634. An act granting an increase of pension to Solomon R. Ruch;
S. 1645. A act granting an increase of pension to Jacob G. Orth;
S. 1665. An act granting an increase of pension to John C. Estes;
S. 1666. An act granting an increase of pension to George W. Beard;
S. 1834. An act granting an increase of pension to Frederick W. Partridge;
S. 1889. An act granting an increase of pension to Arthur Thompson;
S. 1905. An act granting an increase of pension to Edgar Tibbils;
S. 1908. An act granting an increase of pension to Francesco Del Gindice;
S. 1911. An act granting an increase of pension to Gunnerus Ingebretson;
S. 1978. An act granting an increase of pension to Thomas Edsall;
S. 2090. An act granting an increase of pension to Sarah E. Adams;
S. 2091. An act granting an increase of pension to John P. Bambush;
S. 2096. An act granting an increase of pension to Nathaniel R. Kent;
S. 2103. An act granting an increase of pension to Lorin R. Bingham;
S. 2142. An act granting an increase of pension to Adelle D. Irwin;
S. 2153. An act granting an increase of pension to Helen B. Read;
S. 2168. An act granting an increase of pension to Isaac B. Hewitt;
S. 2182. An act granting an increase of pension to John J. Buffington;
S. 2216. An act granting an increase of pension to David W. Magee;
S. 2250. An act granting an increase of pension to John Rauch;
S. 2332. An act granting an increase of pension to Ashley A. Youmans;
S. 2344. An act granting an increase of pension to Albert C. Andrews;
S. 2346. An act granting an increase of pension to John W. Reed;
S. 2393. An act granting an increase of pension to John L. Clark;
S. 2406. An act granting an increase of pension to Thomas Milliman;
S. 2473. An act granting an increase of pension to Charles L. Noggle;
S. 2548. An act granting an increase of pension to Jesse M. Furman;
S. 2840. An act granting an increase of pension to George L. Jaquith;
S. 2863. An act granting an increase of pension to Garrett Rourke;
S. 2868. An act granting an increase of pension to George W. Flick;
S. 2882. An act granting an increase of pension to Samuel E. Johnson;
S. 2950. An act granting an increase of pension to Joseph E. Stines;
S. 3029. An act granting an increase of pension to Delia A. Hooker;
S. 3031. An act granting an increase of pension to Frank Westervelt;
S. 3036. An act granting an increase of pension to John O. Thorn;
S. 3043. An act granting an increase of pension to Henry D. Hall;
S. 3121. A act granting an increase of pension to John G. Blessing;
S. 3132. An act granting an increase of pension to Georgia D. Brown;
S. 3189. An act granting an increase of pension to Elizabeth Rutherford;
S. 3199. An act granting an increase of pension to Andrew J. Coulton, alias Samuel Myers;
S. 3242. An act granting an increase of pension to Daniel Woolley;
S. 3310. An act granting an increase of pension to Richard M. Ogle;
S. 3315. An act granting an increase of pension to Henry V. Hamenstaedt;
S. 3472. An act granting an increase of pension to Lena Sherman;
S. 3473. An act granting an increase of pension to La Forrest C. Darling;
S. 3474. An act granting an increase of pension to James B. Kellogg;
S. 3475. An act granting an increase of pension to Everett S. Fitch;
S. 3492. An act granting an increase of pension to Catharine Bechtol;
S. 3539. An act granting an increase of pension to Dominick Cavanaugh;
S. 3547. An act granting an increase of pension to Stephen M. Davis;
S. 3575. An act granting an increase of pension to Sargent R. Emerson;
S. 3588. An act granting an increase of pension to James Lebo;
S. 3640. An act granting an increase of pension to Oliver Brenton;
S. 3714. An act granting an increase of pension to James Ruth;
S. 3751. An act granting an increase of pension to Daniel D. Nash;
S. 3800. An act granting an increase of pension to Albert D. Cordner;
S. 3866. An act granting an increase of pension to Samuel J. Burlock;
S. 3888. An act granting an increase of pension to Susan E. Israel;
S. 3903. An act granting an increase of pension to John McCoy;
S. 3905. An act granting an increase of pension to James M. Garritt;
S. 3932. An act granting an increase of pension to David Rankin;
S. 3933. An act granting an increase of pension to Sidney R. Smith;
S. 4000. An act granting an increase of pension to Crosby Pyle Woodward;
S. 4006. An act granting an increase of pension to Charles S. Parrish;
S. 4020. An act granting an increase of pension to Henry C. Johnson;
S. 4096. An act granting an increase of pension to Norman W. Lombard;
S. 4097. An act granting an increase of pension to Julius T. Williamson;
S. 4100. An act granting an increase of pension to Carlton A. Wheeler;
S. 4131. An act granting an increase of pension to John Connor;
S. 4159. An act granting an increase of pension to Mary P. Johannes;
S. 4181. An act granting an increase of pension to Margaret Hallett;
S. 4187. An act granting an increase of pension to Nathaniel E. Skelton;
S. 4188. An act granting an increase of pension to Frank D. Smith;
S. 4223. An act granting an increase of pension to Benjamin F. Peirce;
S. 4226. An act granting an increase of pension to James Cain;
S. 4286. An act granting an increase of pension to Thomas J. Davies;
S. 4319. An act granting an increase of pension to Frederick C. Sturm;
S. 4337. An act granting an increase of pension to Barney McGirl;
S. 4362. An act granting an increase of pension to William Fluegel;
S. 4381. An act granting an increase of pension to John T. McGarraugh;
S. 4422. An act granting an increase of pension to Lindsay Kirby;

S. 4496. An act granting an increase of pension to Alphonso Brooks;

S. 4507. An act granting an increase of pension to Joseph Chandler, jr.;

S. 4595. An act granting an increase of pension to Amos McManus;

S. 4636. An act granting an increase of pension to Henry R. Pease; and

S. 4637. An act granting an increase of pension to Frederick Zimmerman.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I ask that the unfinished business be taken up for consideration.

The VICE-PRESIDENT. The Senator from South Carolina asks unanimous consent that the Senate proceed to the consideration of the unfinished business.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. LODGE. Mr. President, I ask that the amendment which I offered to the bill, and to which I desire to address myself, may be read by the Secretary.

The VICE-PRESIDENT. The Secretary will read the amendment submitted by the Senator from Massachusetts.

The SECRETARY. It is proposed to strike out section 8 of the bill and to insert the following:

On the passage of this act an Interstate Commerce Commission shall be appointed by the President, by and with the advice and consent of the Senate, to take the place of the present Interstate Commerce Commission. Said Commission shall consist of nine members, one for and from each judicial circuit of the United States. Not more than five members of said Commission shall be of the same political party; at least three of said Commission shall be lawyers of good and regular standing at the bar, and three others shall be persons of experience in the management and operation of railroads. Three members of said Commission shall be appointed for three years, three shall be appointed for six years, and three for nine years, and all subsequent appointments made on the expiration of a term of service shall be for nine years. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office, and vacancies caused by death, removal, or resignation shall be filled by the President, by and with the advice and consent of the Senate, by appointments for the remainder of the unexpired terms. The members of the Interstate Commerce Commission shall receive $12,000 compensation annually, and the chairman of the Commission, who shall be a lawyer, $12,500.

No person owning stock or bonds of any common carrier subject to the provisions of this act, or who is in any manner pecuniarily interested therein, shall enter upon the duties of such office or at any time hold the same. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission. All laws and parts of laws conferring powers and imposing duties upon or otherwise relating to the heretofore-existing Interstate Commerce Commission shall continue in full force and effect and be applicable to the Interstate Commerce Commission established by this act, except as herein otherwise provided.

All the proceedings depending before the heretofore-existing Interstate Commerce Commission at the time this act shall take effect shall, without break or interruption, be deemed to be depending before the Commission established by this section, and shall continue on to conclusion before the new Commission.

Mr. LODGE. Mr. President, this amendment was founded upon one which was offered by the Senator from Virginia [Mr. MARTIN] at the last session of Congress. I prepared it after consultation with Senators on both sides of the Chamber, I hope that it may receive the attention of the Senate and if there are changes which will improve and perfect it I trust they will be made.

The purpose of the amendment is apparent upon its face. It is an effort, so far as it can be done by law, to give to this Commission by salary and by tenure of office all the strength and dignity which it is possible to confer. When one of the Commissioners appeared before the Interstate Commerce Committee of the Senate he stated that he did not think an increase of salary was of much importance; that there would be no difficulty in getting suitable men for this Commission, just as it was always possible to get good men for the courts. It seems to me that that is a mistaken idea. Nothing can give to any executive commission, the creature of yesterday, the dignity which pertains to and adheres in a court. The courts and the judges represent centuries of tradition. They have been the arbiters of life and death. They have been the support of power, and in later days the sure defense of personal rights and personal liberty. They have in almost all the history of the English-speaking race, and, indeed, of all civilized nations, filled a great place, and about them have gathered that indefinable respect and reverence which time alone can give. But this Commission has, and necessarily can have, none of these qualities except what an act of Congress can confer. Therefore, Mr. President, it seems very important to do all in our power to elevate its character and assure its ability so far as is possible by law.

There seems to be a tacit assumption in all the discussion which has gone on here that if a matter is referred to the Interstate Commerce Commission all will be well; that they, like the king in the English maxim, can do no wrong. Yet they are, after all, men and fallible like the rest of us. I think we have not paused enough to consider how immensely important are the functions to which we are about to call this body of men by the bill which we now have under consideration, and I wish to touch briefly on some of the duties which we expect those officers to perform.

The great importance of our railroad system is well known, and in a general way is constantly stated; but I desire, if I can, to bring it home a little more forcibly by some details. Burke said in a very famous speech that "small minds and great empires went ill together," and certainly what is true of a great empire, as he then contemplated the governments of the world, is true of this Interstate Commerce Commission. After they are clothed with the powers which we propose to confer upon them they will be able to affect the welfare of more people, and the value of infinitely more property, than could have been affected by the act of any monarch ruling in Europe at the time when Burke made his great speech on conciliation with America.

We call upon them primarily to decide as to the rates to be established by the railroads. We know that that is a large question; but, Mr. President, I confess I did not realize how large and intricate a question it was until I had made some careful investigations in regard to the interdependence of rates. I desire to read at this point a brief statement which I have had prepared in regard to that matter. The facts given are somewhat dry, but it brings home, I think, better than anything I have yet been able to find, the enormous complication and importance of the questions which this Commission will be called upon to decide from day to day and in the course of the work imposed upon them.

The course of the railroads of the United States has naturally been laid between the industrial and commercial centers, between places of production and the various markets. The early railroads were built after this tendency from and to the cities which had grown to be commercial centers principally because of their advantageous position for the conduct of traffic by water—Boston, New York, Philadelphia, Baltimore, Savannah, Mobile, New Orleans, and Galveston because of their harbors on the Atlantic and the Gulf; Pittsburg, Cleveland, Cincinnati, Detroit, St. Louis, and Chicago because of their favorable situation on the inland waterways. The development of the western grain fields, to which Chicago was the natural gateway, and the great traffic which ensued between Chicago and New York led to the building of numerous railroads, which competed with the water routes between those cities. Second in importance were the channels of traffic between New York and Cincinnati and St. Louis, which led to the building of competing railroads between those cities and to Boston, Philadelphia, and Baltimore, seaports competing with New York. The traffic between any one of these western cities and any one of these eastern cities, whether eastbound or westbound, came into competition with the traffic between any other eastern and western city, it being evident that certain regions beyond Chicago could also be reached via St. Louis, that certain regions beyond St. Louis could also be reached via Cincinnati, and that the entire European market could be reached through either Boston, New York, Philadelphia, or Baltimore. The contests between these different commercial centers and seaports and the railroads connecting them gave rise to rate wars which were fierce and almost continuous, until, after many tentative compromises, there was attained the rate adjustment which is in effect to-day. By reason of the volume of traffic which flows between them the rate between Chicago and New York is the basis to which practically all the rates east of the Mississippi and north of the Ohio rivers are adjusted. The rates between New York and Chicago, which are the result of contests which have been fought to a finish by the railroads and the communities concerned, are designated as 100 per cent rates. The rates to and from intermediate cities and territories have also been arrived at through contest and compromise and are established as percentages of the 100 per cent rate—that is, the rate from New York to Pittsburg is 60 per cent; to Cleveland, 71 per cent; to Detroit, 78 per cent; to Indianapolis, 93 per cent; Peoria, 110 per cent, and to St. Louis, 116 per cent of the New York-Chicago rate. By arbitration and other adjustment the rates to and from Philadelphia and Baltimore bear a fixed relation to the New York-Chicago rate. Rates from Boston and interior New England points, rates from the territory surrounding Buffalo and Pittsburg, and from other interior points are established in relation to the New York-Chicago rate, as well as rates to and from Norfolk

and other points in Virginia. Rates in the opposite direction—that is, from Chicago to New York—are also considered as 100 per cent, upon which basis are likewise made practically all the West to East rates from points on the Mississippi and Ohio rivers and the territory north and east thereof.

If, therefore, a railroad rate upon an article of general production and consumption is reduced between an eastern and a western point in the territory specified, the equities and rivalries of other producing and consuming localities and the competition of carriers produce the following results:

(1) All railroad rates are reduced between all eastern and all western points in the territory described.

(2) Rates for combined rail and lake transportation are reduced.

(3) Rates via the Erie Canal and the Great Lakes are reduced to maintain the difference between them and the all-rail rates and the rail-and-lake rates.

(4) Rates on through traffic from and to points west of the Mississippi River and from and to points south of the Ohio River are reduced.

(5) Rates may be reduced to and from points in Canada. It has been estimated that a change in one of the rate bases mentioned has forced the changing of not less that 8,000 rates.

Upon the 60 per cent of the Chicago-New York rate fixed for Pittsburg are based, as the result of many years of controversy between competing manufacturers and rate wars between the railroads serving the several districts, the fixed differences for rates from the Mahoning and Shenango valleys, which are 40 cents per ton higher than the Pittsburg rate; from the Cleveland district, which is 60 cents per ton higher than the Pittsburg rate, and from the Johnstown district, which is 30 cents per ton less to the East than the Pittsburg rate. The rates on the raw materials that enter into the manufacture of pig iron—coke, ore, and limestone—to the Pittsburg, the Mahoning Valley, the Shenango Valley, and the Wheeling districts are adjusted in equilibrium so delicate that a change in the rate on ore, coke, or limestone to either of these districts would necessitate a change in the rates on these commodities to the other districts or else a change in the rate on the manufactured iron and steel from the district in which the rates on the raw material had not been adjusted. Likewise a serious reduction in the rates on the products of the furnaces at South Chicago and Joliet will necessitate changes from the Pittsburg district, and therefore from the Wheeling, Mahoning Valley, Shenango Valley, and Cleveland districts.

The adjustment of rates to and from points in the territory south of the Ohio and east of the Mississippi rivers depends not only upon the rates that are made from the West to the crossing points on the Mississippi and from the North to Cairo, Evansville, Louisville, Cincinnati, and other crossing points on the Ohio River, but on the rates by water from New York and Baltimore on the east and on rates from New Orleans and Mobile in connection with the water lines to those points.

What follows the changing of one important rate in this southern territory is exemplified by the following statement of what happened as a consequence of a recent change in rates from Baltimore to Atlanta and Louisville to Atlanta. Rates corresponding to the reduction from Baltimore were made from Boston, New York, Philadelphia, and the other eastern seaports as well as from all interior Eastern and New England cities to Atlanta. Reductions corresponding to that from Louisville were made from Cincinnati, Evansville, Cairo, and Memphis. These reductions from the eastern seaports and the Ohio and Mississippi River crossings necessitated a reduction in the rates from every point in the United States north or west of these gateways, and likewise a relative reduction from Virginia cities to Atlanta and reduction from the South Atlantic ports of Norfolk, Charleston, Savannah, and Brunswick. The changes in these rates to Atlanta forced corresponding change to the neighboring city of Nashville and a proportionate reduction to Chattanooga, Macon, Columbus, and other cities in Georgia. The change at Chattanooga in turn affected rates from Florence, Sheffield, and Decatur; from Knoxville, Montgomery, Selma, and Birmingham, as well as from New Orleans and Mobile. This change in the rates to Atlanta also ramified throughout Virginia and the Carolinas, the total changes necessitated by the initial change being not less than a hundred thousand.

Another traffic current which affects rates throughout a wide territory and in multiplied ramifications is that between Chicago and St. Louis and New Orleans. The roads tributary to this port naturally work to develop its traffic, with the result that lines leading from the grain and grazing regions of the West to the Atlantic seaports have had to make certain revisions in their rates. A reduction in the grain rate made in January of last year from Kansas City to Galveston forced reductions in rates on grain from the territory beyond and via Kansas City and Omaha not only to New Orleans, but to New York and Baltimore. Reductions were also forced to New Orleans from all stations in the grain-raising States of South Dakota, Iowa, Minnesota, and Illinois.

Changes similar to those which have been specified as following the modification of a rate from Louisville to a southern point also follow the change in a rate from St. Louis to New Orleans or other southern distributing point. In such a case the ramifications begin at Buffalo and Pittsburg and extend westward to Arkansas, Indian Territory, Oklahoma, and New Mexico, affecting the rates from these regions to points south of the Ohio and east of the Mississippi rivers. Changes in rates that affect New Orleans and other points in Louisiana also affect the rates to and from Texas, the present adjustment of rates to and from Texas and Louisiana being as delicate as that in other regions of the South where, as we have seen, a reduction in one rate may demolish the entire structure.

The growth of population in the Mississippi and Missouri valleys has brought about a development of industry and commerce which causes an extensive interchange of traffic between the communities that range from Minnesota and Wisconsin to Tennessee and Arkansas and from the Dakotas to Colorado and Oklahoma. It is obvious that to and from many places in these regions traffic can cross the Mississippi or Missouri rivers at any one of several gateways. Therefore there has grown up a rate adjustment for this traffic the interdependence of which may be illustrated by a reduction in the rates on buggies, carriages, and spring wagons recently made from Freeport, Ill., to points in Iowa, which immediately brought about corresponding reductions from Chicago, Peoria, St. Louis, and Dallas, and then reductions from Milwaukee, Racine, Madison, Janesville, Beloit, Wis., Kankakee, Bloomington, Decatur, and other points in Illinois to all points in Iowa and Wisconsin. These reductions spread from all shipping points east of the Illinois-Indiana State line to all points west of the Mississippi River. A reduction in the rate on wire and nails from Chicago to Denver brought similar reductions from other Illinois to all Colorado points, and had the effect of reducing the rates on wire and nails eastbound from the Colorado mills through all of the Missouri River gateways. The interrelation of rates in this region may be summarized by the statement that a change in a rate between St. Louis and either Kansas City, St. Joseph, Atchison, Leavenworth, Nebraska City, Omaha, or Council Bluffs immediately changes the rate to each other of these Missouri River gateways and automatically reduces the rates between Memphis, St. Louis, Peoria, Chicago, St. Paul, Duluth, Sioux City, Sioux Falls, and all points between the Missouri River and the Rocky Mountains.

The rates from St. Louis, Mo., to St. Paul and Minneapolis are on an established basis, attained after compromise through the customary period of warfare, of 105 per cent of the rates from Chicago to St. Paul and Minneapolis; the Chicago rates apply throughout Illinois as far south as Peoria, Decatur, and Springfield. The rates from Chicago and Des Moines are made a percentage of the rates from St. Louis to Des Moines, and the rates from Chicago to interior points in Iowa, such as Cedar Rapids, Ottumwa, and Marshalltown, bear a fixed relation to the rates from Chicago to Des Moines. The rates from St. Louis to Des Moines are fixed upon the rates from St. Louis to St. Paul and Minneapolis. Therefore a reduction in a rate from Chicago to St. Paul and Minneapolis would result in a corresponding change from St. Louis to these cities, which, in turn, would change the rate from St. Louis to Des Moines, which would change the rate from Chicago to Des Moines, and likewise the rates from Chicago to Cedar Rapids, Ottumwa, and Marshalltown.

The complications which beset the making of rates between the regions east of the Rocky Mountains have their effect upon the rates to and from the Pacific coast, which also must be kept in certain adjustment with the ocean rates, a change in the through rate via any route from any place of production in the East necessitating a change via any other route to any seaport competing with another seaport for the trade of the interior. It is the same with the rates from the Pacific coast. For example, canned, dried, and green fruit and vegetables produced in California, Oregon, and Idaho compete with one another not only in the West, but pretty much throughout the United States and in certain parts of Europe. A change in the rate on any one of these commodities via any route from any producing center would bring about corresponding changes via other routes from the same and other producing centers.

As another example, sugar is produced and refined in Texas and Louisiana and also in Colorado, Utah, Idaho, and in California; sugar from Cuba is imported and refined at New York

and Philadelphia. All of these places of production and refining compete for the markets of the Mississippi and Missouri valleys. Therefore a change in the rate on sugar from California to a Missouri Valley distributing center would probably cause a change in the rate on sugar from New York, Philadelphia, Utah, and Colorado. A change in the rate on any commodity from St. Paul to Butte, a distributing center of Montana, would cause a change in the rate from every crossing point on the Missouri River to the distributing points not only in Montana, but in Utah and Idaho.

In a word, the merchants of Chicago, St. Louis, St. Paul, Duluth, Sioux City, Omaha, Kansas City, Denver, Salt Lake City, Butte, Spokane, Seattle, Tacoma, Portland, San Francisco, Los Angeles, Galveston, and New Orleans are all competing to a greater or less degree for the trade of the entire territory between the Mississippi River and the Pacific Ocean. The rate adjustment now existing is the result of experience, of competition between carriers, competition between communities, competition between the producers and between the distributers. It is an adjustment that is ever in unstable equilibrium, changes constantly being made to meet the fluctuating conditions of industry and commerce which in this region are peculiarly and intensely energetic.

For the grazing grounds which range from the Canadian boundary to the line of the Union Pacific Railway Chicago is the controlling market. If the rate for beeves from any point in this vast region to Chicago is reduced, corresponding reductions must be made from the adjoining points, and these reductions affect the rates from all other points on the various railroads leading from that territory. As the cattle are on the hoof and can be shifted from one end of a range to another, often over a distance of two or three hundred miles, without damage or increased expense, this shifting can readily be made to a station on a road which has reduced its rates and away from the railroad that has not made a corresponding reduction. An attempt to adjust live-stock rates through the Interstate Commerce Commission necessitated the inclusion in the complaint by certain of the live-stock interests of all the railroads between Canada and Texas. But be it said that the complaint was far from unanimous, many shippers expressing entire satisfaction with the status.

An interesting example of competition arose out of the enormous demand for flour in China and Japan during the recent war. Enormous purchases were made from the Minneapolis millers, who were quoted rates via the Atlantic seaboard and the Suez Canal. The railroads leading to the Pacific coast were enabled, by the necessity of transporting cars to the coast to bring east products of the Northwest and of the Orient, to quote the low rates necessary to secure shipments of this flour from Minneapolis to the Orient via Puget Sound. This rate, established solely to obtain this particular and temporary traffic, was so low as to cause the millers and farmers at interior points on the Pacific coast to demand correspondingly low rates on their shipments for domestic consumption at the coast. As it was impossible to grant their request, the low rates from Minneapolis were withdrawn.

The exposition just made applies to that interdependence of railroad freight rates which grows out of the competition between railroads, between communities, between producing centers and markets. There is another phase of this interdependence which grows out of the relation and competition between commodities themselves. It is a general principle that crude or raw materials should, other things being equal, pay lower railroad rates than the manufactured products. Therefore, for example—

(1) Rates on pig iron are lower than rates on steel billets, blooms, and ingots, which rates in their turn are lower than those upon finished iron or steel products.

(2) Animal hides are accorded lower rates than leather.

(3) Wool and cotton are accorded lower rates than woolen and cotton fabrics.

(4) Rates on live stock are less than on dressed beef, and less on hogs than on hams and other provisions.

(5) The rates on ore are less than on bullion and matte.

(6) Rates on lumber are less than on products manufactured therefrom.

(7) Rates on denims are less than on overalls and jumpers.

It therefore follows that a change in the rate on a finished product or on a raw material which is a factor in its production may necessitate changes on the other kinds of raw material and on the finished product. For example, a change in the rate on lumber would result in a corresponding change on articles taking lumber rates, such as lath, shingles, telegraph and telephone poles, and upon articles manufactured from lumber and taking higher rates, such as sash, doors, blinds, and interior finish; or, as another example, a change in the rate on sulphur to paper-manufacturing points would result in corresponding changes on other articles of paper stock, such as brimstone, caustic, soda, kaolin, copperas, potash, soda ash, resin, ground clay, and ground rock.

That competition known in economics as "substitution"—the use of one commodity in the stead of another if there is too great a variant in the price—compels the railroads in behalf of established industries to maintain a certain relative adjustment in the rates on competing commodities, for example, as follows:

(1) Soap, soap extracts, soap powders, washing compounds, washing powders, and washing crystals, all of which are used for cleansing purposes and are commercially competitive.

(2) Glue (animal product), dextrin (vegetable product), casein or milk curd (animal product), all of which are adhesives largely used for manufacturing purposes and directly competitive.

(3) Hemp, sisal, manila, and jute, all vegetable fibers, directly competitive in the manufacture of rope and twine.

(4) Strawboard, wood-pulp board, binder's board, box board, news board, and chip board.

(5) Corundum, carborundum, and emerald.

(6) The different kinds of paint.

(7) The different kinds of paper.

(8) Copper wire, copper rope, copper cable, insulated wire, insulated cable.

(9) Wrought-iron pipe, cast-iron pipe, all iron and steel tubes.

(10) Rolled oats and all cereal foods.

(11) Raisins, dried prunes, dried peaches, dried apricots, dried pears.

(12) Canned salmon and all other canned fish.

(13) Canned fruits and canned vegetables.

This analysis of rates, Mr. President, is simply to show the fact which I desire to call especial attention to—that these railroad rates are all interdependent and interlaced and that when you decide as to one rate you may affect ten thousand rates covering a third or a half of the United States, and that means affecting for weal or woe the daily business of all that great area.

But, Mr. President, this is not all by any means which the Interstate Commerce Commission is called upon to do. I have not the slightest intention of casting any reflection whatever upon the able and distinguished gentlemen who now occupy those important positions. They have been eulogized by the eloquent and distinguished Senator from Iowa [Mr. DOLLIVER], and he has pointed out to attentive consideration the ten volumes of their reports, which is certainly, as he said, a monument of industry, if nothing else. But that is not all. This Commission has been engaged in promoting and advocating legislation. I find, in the testimony taken before the Interstate Commerce Committee on the 8th day of December, 1899, that the following proceedings were had in the Interstate Commerce Commission:

[Reprinted from hearings before Committee on Interstate Commerce, United States Senate, Friday, April 13, 1900, page 396.]

PROUTY EXHIBIT A.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 8th day of December, A. D. 1899.

Present: Hon. Martin A. Knapp, chairman; Hon. Judson C. Clements, Hon. James D. Yeomans, Hon. Charles A. Prouty, Commissioners.

The following proceedings were had, to wit:

AMENDMENT OF THE ACT TO REGULATE COMMERCE.

Cooperation with certain mercantile organizations to secure the adoption of amendments to the act to regulate commerce being under consideration,

It was unanimously voted to instruct the Secretary to cooperate with the representatives of these organizations for the purpose of securing the adoption of necessary amendments, and particularly the passage of a bill which has been approved by such organizations at a meeting held in Chicago on November 22, 1899, and to that end to give the public information as to the present state of the law, and the necessity for amending it by distributing such reports, papers, and documents as are designed to accomplish that purpose, and to devote himself assiduously to such duty.

A true copy.

[SEAL.] EDW. A. MOSELEY, *Secretary.*

That was a formal order of the Commission to enter, in conjunction with mercantile organizations throughout the country, upon a general campaign in favor of amendments they thought proper to the interstate-commerce act in order to enlarge their own powers. There follows on the next page, which I will not read, a circular which they subsequently sent out.

Mr. FORAKER (to Mr. LODGE). Why not insert it?

Mr. LODGE. Very well, I will insert the whole of this statement, including the order of the Commission and the circular.

Mr. BEVERIDGE. What is the nature of the circular?

Mr. LODGE. It refers to Senate bill 1439, introduced by the Senator from Illinois [Mr. CULLOM], and then advocates the changes proposed in that bill. It was circulated throughout

the country in order to secure support for that measure, which had the approval of the Commission.

The circular letter referred to is as follows:

Inclosed please find copy of Senate bill No. 1439, introduced by Senator CULLOM December 12, 1899, which embodies provisions amendatory of the act to regulate commerce. The bill is designed to give the Interstate Commerce Commission the authority intended to be conferred by Congress when the law was originally enacted.

A few railroad officials and some newspapers have charged that the Commission by recommending these amendments is seeking unlimited authority to make rates. This charge is entirely without foundation. The Commission neither asks nor desires to be invested with general rate-making power. It simply asks for authority to correct rates which have been previously established by the carriers in the full exercise of their rate-making power, when such rates are found by the Commission, after due notice, investigation, and full hearing, to be in violation of the act; and the Commission asks this because experience has demonstrated that there is practically no other way by which the public can be protected against excessive or unjustly discriminative rates.

It has been asserted in some quarters that the powers asked for in this regard would imperil the commercial interests of the country. This statement is altogether erroneous. On the contrary, the passage of this measure would conserve the interests of producers, manufacturers, and shippers generally, while protecting the rights of the carriers. On November 22, 1899, this bill was submitted to a convention composed of representatives of leading commercial and industrial organizations of the country at Chicago. There were present authorized delegates from the Millers' National Association of the United States, the National Association of Manufacturers of the United States, the National Business League, the National Board of Trade, the National Transportation Association, the National Live Stock Association, the United States Brewers' Association, the Vapor Stove Manufacturers' National Association, the National Hay Association, the National Association of Freight Commissioners, and others.

After carefully considering the measure section by section it was approved by the conference. Since that time more than twenty other national business associations have expressed their approval of the bill. The shippers of the country, therefore, with the approval of the Interstate Commerce Commission, seek such amendment as will empower the Commission to proceed on the lines and to the ends contemplated by the original act. The language and phraseology of that act, as interpreted by the Supreme Court of the United States in various decisions, has been found insufficient to authorize the procedure and action necessary to give effect to its purpose. The language of the proposed amendments is believed to be so clear as to admit of no misinterpretation.

Your attention is particularly called to the fact that the authority to correct rates which have been found to be unlawful is neither arbitrary nor final under the provisions of this bill. In every case the carriers must have due notice and opportunity to be heard before any change in rates can be ordered, and all orders of this character are made subject to review by a circuit court of the United States and by the Supreme Court of the United States.

As already stated, the sole purpose of these amendments is to furnish the means of enforcing the present provisions of the law against unreasonable rates and unjust discriminations, and to that end to confer upon the Commission the degree of authority respecting rates which for ten years it was supposed to have, but which the Supreme Court has declared it does not possess.

If the general features of the bill as above outlined meet your approval, it is respectfully suggested that you take action expressing your approbation and support to the Senators and Representatives from your State and to the Committees on Interstate and Foreign Commerce of the United States Senate and House of Representatives at Washington, either alone or with others, or by petition or otherwise.

I would be glad to hear from you in respect to the matter, and would be pleased to receive advice of any action which you may take and copies of any letters, petitions, or other documents which may be forwarded to Senators and Representatives or either of the committees.

Very respectfully,

EDW. A. MOSELEY, *Secretary.*

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. LODGE. Certainly.

Mr. DOLLIVER. I should like to be informed by the Senator as to the impropriety of that, and how far it differs from the activity of other Departments of the Government in making recommendations for bringing the law into harmony with the good of the public service?

Mr. LODGE. The Senator from Iowa seeks to defend what I have not attacked. I have not attacked the Commission for doing that nor have I reflected upon them. I am pointing out that this is a great function which they are filling; and I was going on to say that in the resolution in which the Senator from South Carolina [Mr. TILLMAN] is so much interested, although he is such a relentless opponent of executive power, the Commission are specifically authorized and invited to suggest legislation to Congress.

Mr. DOLLIVER. Mr. President, I had that resolution in mind; and my recollection is that it passed the Senate by a unanimous vote of the body.

Mr. LODGE. It did; and I have not yet criticised the Commission. I am pointing out the duties which are placed upon them. Without that resolution, however, they have been doing that work; they have been——

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. LODGE. With pleasure.

Mr. NEWLANDS. I wish to ask the Senator whether he bears in mind the fact that the original interstate-commerce act calls upon the Interstate Commerce Commission to make recommendations to Congress from time to time in regard to legislation?

Mr. LODGE. I had forgotten that they were called upon to make recommendations to Congress. But I am finding no fault with their making recommendations. My point is that that body will have, in addition to the duties they have to perform under this act, very large additional duties in preparing legislation and advocating the enlargement of their own powers when they find them too small or are overruled by the courts.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. Certainly.

Mr. FORAKER. I rise only to suggest that there is certainly a very wide difference that must be manifest to anyone the moment he thinks about it, between making an official recommendation, in accordance with the requirements of a statute, and organizing a propaganda, and in carrying out the particular purpose, writing, preparing, and distributing literature in behalf of a purpose connected with legislation.

I remember that during the last two or three years there has been a great outcry because the letter carriers of the United States have had the presumption to ask, through their organization, that their pay might be increased. That has been thought to be very wrong indeed, and they have been criticised and threatened with dismissal from the service if they persisted in it. That same rule has been applied to others who are engaged in the public service; and the rule prohibiting men who are engaged in the public service becoming the promoters of particular ideas with respect to legislation has been, as I think, generally approved.

I did not rise to criticise the Interstate Commerce Commission, but only to call attention to this fact. I know in all the newspapers it was commented on when this convention was held in Chicago last August, I think it was, that a representative of the Interstate Commerce Commission was there, acting as a sort of secretary; that he had much to do with the marshaling of many civic and commercial bodies and organizations that were represented there; and it was charged that some of them existed only on paper. I do not know what the fact is, but it showed how thoroughly an organization may be brought into bad repute when they go into that kind of business. I think it is bad practice.

Mr. LODGE. Mr. President, the resolution to which I referred authorized the Commission to make suggestions to Congress, and the Senator from Nevada [Mr. NEWLANDS] calls my attention to the fact that they were invited to give recommendations under the original law. I do not question their right at all, but I merely desired to point out that it was a very important duty to impose on any executive board.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from South Carolina?

Mr. LODGE. Certainly.

Mr. TILLMAN. The Senator from Nevada having called attention to it, I have looked up the original act, and I find in it this section:

SEC. 21. That the Commission shall, on or before the 1st day of December in each year, make a report to the Secretary of the Interior, which shall be by him transmitted to Congress, and copies of which shall be distributed as are the other reports issued from the Interior Department. This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary.

Now, it has occurred to me—it is not my function or purpose to rush in to defend the Commission, and the Senator from Massachusetts says he is not attacking them——

Mr. LODGE. I have not attacked them.

Mr. TILLMAN. But the Senator from Ohio [Mr. FORAKER] has seemed to indulge in some very caustic criticisms. I want to remark that after the decision of the Supreme Court in 1897, practically destroying the Commission except as a body of statisticians and arbitrators or conciliators, as we have had them described in the Interstate Commerce Committee, these people, I presume, were afraid that their functions would become so useless that they would be legislated out of office some day, and they were probably considering whether or not they had not better hustle about and attract attention to the worthlessness of the Commission in order to let people see that, if they were to be of any use, there must be some amendment to the law.

Mr. LODGE. I think, Mr. President, that their minds probably worked very much in that way, but, of course, if it is to be held that when the court overrules a decision of some board of this kind, then the board is to immediately go to work and

get the law changed so as to accord with their view of it, there is nothing further to be said. The law and the recent resolution authorized them, invited them, to suggest legislation. I say it is an important duty. I do not find, however, in any law that they are called upon or invited to carry on a public agitation throughout the country, as they have done by writings, by speeches, and by circulars. That work has been done very actively and very thoroughly. In illustration of it I shall presently call attention to a speech which one of ablest and most distinguished of the Interstate Commerce Commissioners has recently made.

But my point now is this, Mr. President: If we are creating a board of Interstate Commerce Commissioners who are to be in the operation and discharge of their functions judge, jury, and prosecuting officer, resembling nothing that I can think of except the French juge d'instruction, if they have those multiplied powers, to begin with, and in addition are to be charged with preparing and recommending legislation for Congress, with making investigations into the general business of the country, and with carrying on a perpetual discussion about all railroad legislation, I say, Mr. President, we can not go too far in our effort to secure for those positions the highest talent and the highest character which the country affords.

Now, I desire to call attention a little in detail to the objects and purposes of this amendment:

Said Commission shall consist of nine members, one for and from each judicial circuit of the United States.

That is a rough way—the only way that suggested itself to me or to others—of getting a proper representation of the different sections of the country upon this Commission.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from South Carolina?

Mr. LODGE. Certainly.

Mr. TILLMAN. Has the Senator examined to find out whether or not that would be giving a proper distribution of representation on the Commission?

Mr. LODGE. I said it was a rough way of reaching it. Unless we go to work and make up districts ourselves, and say there shall be one from each of the districts set forth in the act, I know of no better way of getting at it. It seems to me it is a desirable result, but if there is a better way of attaining it, and the Senator from South Carolina will suggest the method, I shall very gladly adopt it. My only desire is to get a proper representation of the different sections of the country.

Mr. TILLMAN. I had naturally drifted into the idea, along with others, that nine was a very desirable number of Commissioners. We think there ought to be an increase, and as there are nine judicial circuits, one from each circuit would probably distribute the members of the Commission geographically in a fair and proper manner; but I find such inequalities in the circuits as to population, area, railroad mileage, and the number of complaints that have come to the Interstate Commerce Commission, that it would seem, upon a little examination of a map which I had prepared, but can not put my hand on at the moment—I will get it before this debate is over—that that is wholly inappropriate and would be unfair and unwise. If we are going to say they must come from any particular place or section, we would have to divide the country anew. I will illustrate that by reciting from memory that I think the first judicial circuit has only about 6,000 miles of railroad in it, whereas there is a circuit down on the Gulf which has 30,000 miles of railroad in it. That is a mere illustration of the inequality that would come from judicial-circuit distribution. I will present the map later. I have had it prepared and will get it.

Mr. LODGE. It seems to me that business is a better test than mileage, but I am perfectly willing to accept any fair scheme which will distribute nine commissioners so as to give representation to the different sections of the country. I think that it is well to increase the number with that same purpose in view. Take as an illustration the present Commission, which consists of five members. There is one Commissioner from Vermont, one from close by in New York, one from Georgia, one from Missouri, and a new one from California has just been named. There is the great Middle West entirely without representation, and the Northwest, and a large part of the Southwest with no representation on that Commission. I doubt if it is possible with only five Commissioners to get any proper geographical distribution, and I think it is very desirable to have the different sections of the country represented. After all, the Commissioners are merely human—I do not wish to be thought to be making an attack upon them when I say that—and almost all human beings are more or less affected by the very human preference for the localities to which they are attached, for the State which they represent, for the places where they were born, and so on. It would be very unnatural if they should not have preferences of that kind. Therefore, I think it is extremely important that there should be some distribution of the Commission, so that every portion of the country may be fairly represented on the board, either by judicial circuits or by such other arrangement by districts as we may make here. I have no doubt, as the Senator from South Carolina says, we can make much better ones than those which now exist in the judicial circuits.

Mr. TILLMAN. Mr. President, I merely want to suggest to the Senator, by way of letting his mind rest on that view in that connection, whether or not he regards this Commission as approximating in dignity and power and responsibility the Supreme Court?

Mr. LODGE. I think, Mr. President, that it has enormous power, but I do not think that it approximates in dignity or in weight to the Supreme Court, nor do I believe it can ever do so, for the very reasons which I have already suggested. It has neither the traditions nor the habits of a court, nor is it one of the great constitutional departments of the Government.

Mr. TILLMAN. With that I agree in some measure, but the responsibility which rests upon this Commission, or will rest upon it if we legislate along the lines we are contemplating, and the power it will have will be so great that I would regard it as the nearest in dignity and power to the Supreme Court of any department of the Government not mentioned in the Constitution. Of course, I probably ought to except the Senate and House of Representatives, which will create and govern that body; but, holding the view that I do, that this Commission is to be a body of great responsibility and power, with very large salary, and everything to lift it as far above partisanship and sectionalism as is possible, I would deprecate anything which would look like a recognition of sectionalism in its composition, if we can possibly get rid of it.

Mr. LODGE. Does the Senator from South Carolina think it would be a good idea to have all three Commissioners from the State of New York, for example?

Mr. TILLMAN. No, I should think it would be a good plan for the President to consider most carefully and seriously the make-up and antecedents of any man whom he might suggest to us for appointment on the Commission.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. With pleasure.

Mr. FORAKER. I can not resist the temptation, unless the Senator from Massachusetts objects to my interrupting him here, to say that I am in accord with the suggestion just now made by the Senator from South Carolina, that men should not be selected for this Commission, if we are to have one, representing the different sections. I say that, not alone upon argument, to which I have not time to resort, but rather upon experience. I do not know whether or not the Senator from Massachusetts is familiar with the Maximum Rate case, so called.

Mr. LODGE. I have read it.

Mr. FORAKER. We have, in the decision rendered in that case, an illustration of what the representation of sections will do, without anybody intending to do anything except only his full duty.

That was a case, as Senators will remember, in which the question before the Commission was whether the rates from Chicago and Cincinnati to Chattanooga, Atlanta, Rome, Meridian, Knoxville, and other places in that territory were relatively too high. The Commission found that they were. They ordered a reduction. I will go into this at length when I have the time. I merely want now to give the Senator the benefit of what is in my mind, if it shall be of any benefit.

The opinion was prepared by Mr. Clements, a member of the Interstate Commerce Commission, who resided at Rome, Ga. Now, Rome and Atlanta were common points. The rate from Cincinnati, for instance, to Atlanta and Rome was $1.07. It was the same to both points. The rate was the same from Chicago to both Atlanta and Rome. They were common points. But they so worked it out, honestly, of course, Mr. President—I do not mean to reflect at all on Mr. Clements, who wrote the opinion——

Mr. LODGE. I trust the Senator from Ohio is not going to read the opinion.

Mr. FORAKER. I am not going to read the opinion, but I am going to state the result.

What was the result? To make it short, the Commission agreed—Mr. Clements wrote the opinion—that the rates were too high from Cincinnati and Chicago to Rome and Atlanta

and these other points, and they made a reduction. They reduced the rate, on an average, 19 per cent to all points except Rome, and reduced the rates to Rome nearly 29 per cent. In other words, the rate from Cincinnati to Rome and Atlanta was $1.07. They reduced the rate from Cincinnati to Rome to 75 cents and to Atlanta to 86 cents. They worked that out according to a rule which they adopted. But it shows, whether consciously or not, that Mr. Clements was there, representing his section, determined to see that it had a square deal, and to give it a square deal. Rome, not the Rome that sat on her seven hills and from her throne of beauty ruled the earth, but Rome, sequestered in the foothills of northern Georgia, a common point with Atlanta, was given this greater reduction.

Mr. TILLMAN. Mr. President——

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from South Carolina?

Mr. TILLMAN. The Senator from Massachusetts will permit me——

Mr. FORAKER. Now, I want to say—and then I will not interrupt the Senator from Massachusetts further unless I feel inclined to and he will allow me—that the vice of this whole business is the idea that the different sections have got to be represented, the different professions have got to be represented, the different political parties have got to be represented. What have parties and what have sections to do with the efficient discharge of this duty?

Mr. President, I shall contend at the proper time that if you are going to have a rate-making commission it shall be composed of three men, all of whom shall live in Washington, or some other place from which men can be chosen who are supposed to have no prejudices, no biases, no sections to represent, and who will be fair and honest toward all the interests involved.

Mr. LODGE. Mr. President——

Mr. BACON. I hope the Senator will permit me for just a moment.

Mr. TILLMAN. Will the Senator from Massachusetts indulge me for a moment?

The VICE-PRESIDENT. The Senator from Massachusetts has not yielded.

Mr. LODGE. I desire to reply to the Senator from Ohio before I yield to others.

The argument of the Senator from Ohio is mine. I think it leads directly to what I am advocating, because I do not believe we can find in this country three men or five men or nine men who are wholly devoid of local feeling and prejudice. I repeat, I think these gentlemen on the Interstate Commerce Commission are merely human, and the example of Rome, Ga., is a perfect example of exactly what I want to avoid by giving a representation to each section, so that there will be no possibility of favoritism to one town or one section over another, because the Commissioners will be able to balance each other and see that one section is not punished and another unduly benefited. I draw a different conclusion from the example which the Senator from Ohio has cited. It seems to me to argue my case and not his.

Now, Mr. President——

Mr. TILLMAN. Will the Senator indulge me a moment before he resumes his argument? I dislike to interrupt him.

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from South Carolina?

Mr. LODGE. I yield.

Mr. TILLMAN. I merely want to say that while I am in no sense a defender of Mr. Clements, I should like to know a little more in regard to this alleged favoritism to Rome.

Mr. LODGE. I wish the Senator from South Carolina would not discuss Mr. Clements and his favoritism in the middle of my speech. He can do it just as well later on.

Mr. TILLMAN. The Senator can strike out everything I say after I get through.

Mr. LODGE. That is a detail which we can take up subsequently.

Mr. TILLMAN. I think when Mr. Clements has been attacked, as I think probably unfairly, or——

Mr. FORAKER. I expressly stated that I was not making any attack upon Mr. Clements.

Mr. LODGE. I must proceed, Mr. President.

The VICE-PRESIDENT. The Senator from Massachusetts declines to yield further.

Mr. TILLMAN. Of course I must surrender, if the Senator from Massachusetts will not permit me to proceed.

The VICE-PRESIDENT. The Senator from Massachusetts declines to yield further.

Mr. LODGE. I think it is desirable to make this board, so far——

Mr. BACON. Mr. President, I do hope the Senator from Massachusetts will permit me to say a word for Mr. Clements right in this connection. He has been assaulted here, and a very grave reflection has been made upon him. Certainly I will not occupy much of the time. I just want to say this——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. LODGE. I have made no reflection whatever upon Mr. Clements.

Mr. BACON. I know; but the Senator yielded to the Senator from Ohio, who did, and I think in the same connection——

Mr. LODGE. I had no idea what the Senator from Ohio was going to say.

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. BACON. I simply want to say a word.

Mr. LODGE. I yield, certainly.

Mr. BACON. Mr. President, I do not propose to go into the discussion of the question as to the propriety of the ruling which was made. I have known Mr. Clements for a long time, and am perfectly certain that when the facts are ascertained there will be such an explanation of them as will relieve him absolutely of such reflection as that cast upon him by what has been said by the Senator from Ohio.

Mr. FORAKER rose.

Mr. BACON. The Senator will permit me for a moment. If the Senator from Ohio had simply sought to apply what has been done by the Commission to the contention that Mr. Clements naturally favored the section from which he came, that might have been so in accordance with what is human nature that no reply would have been needed. But the idea of suggesting that Mr. Clements, coming from Rome, was a party to the deliberate and intentional discrimination between Rome and Atlanta is utterly beyond all reason or possibility of correct foundation in fact or reason.

Mr. Clements has been a member of the Commission for fourteen years, and in all that period this is the first thing I have ever heard which in the least reflects upon him as a man finely fitted for his position, devoted to his duties, diligent, capable, honest, and impartial; and I am sure that an examination of his record will prove that I have in no manner overstated the estimate in which he is held, and is entitled to be held, by the public.

I think, so far as Atlanta and Rome are concerned, if the Senator from Ohio knew how big a place Atlanta is he would not for a moment suggest that anybody in the State of Georgia would discriminate against Atlanta in favor of any other locality, even if he lived in the latter.

Mr. FORAKER. Mr. President, I fully subscribe to all that the Senator from Georgia has said in favor of Mr. Clements. I know Mr. Clements and I have a high regard for him, and I was particular to say that Mr. Clements in making this decision acted honestly and in accordance with the rule which he and the Commission had adopted, but which worked out this particular result.

But nevertheless the fact remains, as the result of what they did, that Rome did get this exceptional benefit, which does look like a discrimination, and which was regarded as a discrimination by all the interested cities at the time the order was made.

Mr. BACON. But if it was the unanimous act of the Commission, how can it be that it was influenced by the fact that Mr. Clements lived in Rome? It seems to me that defeats the entire contention of the Senator, unless he means to say that Mr. Clements's influence over the Commission was so great that he could secure from them a unanimous ruling in favor of the small town of Rome.

Mr. FORAKER. I mentioned that simply as a coincidence——

Mr. LODGE. Mr. President, I must decline to yield any further to a discussion about Mr. Clements.

The VICE-PRESIDENT. The Senator from Massachusetts declines to yield further.

Mr. LODGE. We have now heard from the complainant and from the defense, and I think the question may rest there.

Whether we can remove the Commission from undue geographical considerations or not, I think everybody will agree that it is in the highest degree desirable to put them as far away as possible from geographical considerations, and also whether we get the three archangels, whom the Senator from Ohio is going to have, living in Washington, or whether we get merely nine honest and able American citizens, I regard it as highly important to put them by their tenure and by their salary and by all the dignity we can confer upon the office as far beyond the effect of geographical considerations or public clamor as it is possible to place them.

We are all susceptible to public clamor as well as to local patriotism. That is a weakness of human nature. Senators will remember an illustration of it in Pickwick, when Mr. Pick-

wick and his friends went down to see the election at Eatanswill. When they arrived there was a mob in the street, which called upon them to cheer for Slumpkey. Under Mr. Pickwick's lead they all cheered for Slumpkey. "Who is Slumpkey," whispered Mr. Tupman. "Hush," said Mr. Pickwick; "I do not know, but I have observed that under these circumstances it is generally wise to do what the mob do." "But," said Mr. Snodgrass, "suppose there are two mobs?" "Shout with the larger," said Mr. Pickwick. Volumes could not have said more.

Mr. Pickwick, who was a very wise man, pointed out a common weakness of human nature. There is a tendency always to shout with the largest crowd. I wish to see the Commission raised as far as possible to a point where they will be not susceptible to public clamor, where they can decide these great questions with an eye single to the public good, and with an absolute regard for the rights of all who are involved.

I have also provided in this amendment that three of the Commissioners shall be lawyers. There have been forty-three cases taken up from the Commission to the Supreme Court. In thirty of these the Commission has been overruled; in only two affirmed. The cases that were not taken up were really more in the nature of arbitration. I think it would be desirable to have men to interpret the law under which they act who could make a little better percentage of affirmations in the Supreme Court when their cases were taken up for review.

The term of the Commissioners is made long by my amendment for the same reason that the salary is made high, in the hope of securing the very best men.

I have also proposed that three Commissioners shall be men who have had experience in railroad management and operation. It seems to me it is very desirable to have on the Commission men who know something about the practical operation of railroads. Mere hostility to railroads does not seem to me a sufficient qualification in itself for passing upon these great questions. I think we need more knowledge than that. In my opinion we require on the Commission a knowledge of law and good lawyers. I think that they also should have a knowledge of railroads. Let the other three members be simply laymen without special knowledge, if you please, or without special training either in law or railroads. In suggesting that the chairman of the Commission shall be a lawyer, I merely follow the English precedent, where the railway commission court has for its presiding officer one of the judges of the highest court, recognizing in that way the importance of great legal ability when it comes to the decision of these important questions.

Mr. President, I think it is a good rule, whenever Congress confers great powers, to guard them well, and I would guard them here, first, by the character and ability of the Commission, and then by assuring to all who come before the Commission their day in court afterwards if they are dissatisfied with the Commission's ruling.

In the speech which I made some little time ago on this same question I made no allusion to any local or sectional aspect which it might present. We in New England believe that the prosperity of one part of the country makes for the prosperity of all. We can not conceive that we should prosper while the rest of the country or any other important part of the country was suffering from adversity. At the same time to every section of this country the powers conferred on the Commission are a matter of great moment, and I desire, if I may so far trespass on the patience of the Senate, to point out the nature of the importance this bill possesses to that part of the country from which I come.

One of the railroad Commissioners, Mr. Prouty, has recently been making speeches in New England, and he made one speech in Boston in which he took occasion to point out how mistaken the attitude of the New England Senators and Representatives was in regard to this bill. I do not know that he was quite clear as to just what our position was, but he certainly thought we were making a mistake. His speech was widely read. It might, if unanswered, give a very false impression of the attitude of New England Senators and Representatives, and I do not think it states very fairly the condition of New England in relation to this question. There is no part of the country which so much requires proper regulation of railroads as New England, and there is no part of the country which would suffer more from a misuse or abuse of the powers conferred by this proposed act than the New England States.

Mr. Prouty in his Boston speech took occasion to point out how much better off New England would be if she only could have a railroad commission here in Washington, if not at home, vested with great powers; and in order to show our depressed and unfortunate condition he took as a standard of comparison the State of Iowa and the Kingdom of Prussia, or, rather, Germany. He wished to suggest how much better off we would be if we only had the laws of Iowa or the laws of Germany in regard to our railroads.

Mr. President, the comparison with Iowa is a severe one for Massachusetts or any one of the little New England States to encounter. Iowa is a great State of over 55,000 square miles. There is probably no spot in the world that has a richer soil. It is a beautiful State. It has great deposits of coal. It has enormous natural endowments. It is equally fortunate in the character of its population. There is no State in the Union with a finer or better population than that of the State of Iowa. There is no State which has been more strongly or powerfully represented in the National Government than the State of Iowa from the day when she first entered the Union. At this moment there are two representatives of that great State in the Cabinet. The leader of the Senate, honored and beloved by all Senators on both sides, is the senior Senator from Iowa [Mr. ALLISON]. The name which this bill bears is that of a distinguished Member of the House of Representatives from the same State. No State is more fortunate in its natural gifts and in the ability and character of its people than that great State of Iowa, in the heart of the country.

As to Massachusetts, Mr. President, we are very proud of our old State; very proud of its great history, and of the men who have made that history. But it is a small State. It has only about 8,000 square miles. It has not a fertile soil. It has no mines. It is dependent on its sister States for all the materials which it works up into finished products in its many industries. Certainly, Mr. President, if the legislation of Massachusetts is bad, no State ought to show it so quickly or be so sensitive to it.

Yet, Mr. President, I turn for comparison in population to the census of 1905, which was taken during the past year in Massachusetts and also in Iowa, and I find, according to the statement furnished me by the Director of the Census, that the population of the State of Iowa, according to the State census of 1905, was 2,210,000, and in 1900, according to the returns of the Twelfth Census, it was 2,231,000, a loss in five years of 21,000. The population of Massachusetts, according to the census of 1900, was 2,805,000. The population in the past year was shown by the State census to be 3,003,000. The State of Massachusetts gained practically 200,000 people in the last five years, while the State of Iowa appears on the face of the census reports to have lost 21,000.

Mr. President, those figures, considering the enormous natural advantages of the State of Iowa, a great State, six times as large as the State of Massachusetts, certainly, I think, disprove the proposition of Mr. Prouty that we are suffering in Massachusetts from injurious or ineffective legislation or that we are in sore need of more and new legislation to save us from ruin. We have a railway commission in Massachusetts. We were one of the earliest States to adopt such a commission. It does not undertake to fix rates. It advises the rate to be made and trusts to publicity. Our law has been copied in England. It is a law praised by Mr. Acworth in his testimony as a model law on the subject of railroads, and under that law the State has suffered as little from railroad discrimination, I will venture to say, and has come less, I am sure, to the Interstate Commerce Commission for relief than almost any other State in the Union.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. LODGE. I do.

Mr. NEWLANDS. The Senator from Massachusetts has called attention to the fact that Massachusetts has gone ahead while Iowa has retrograded in population during the past five years, notwithstanding the fact that the State of Iowa has great natural advantages and great natural wealth that Massachusetts does not have.

I would ask the Senator from Massachusetts whether that might not be attributed to the economic policy of the country, which, through a high tariff, has protected the special industries of Massachusetts unduly, building up wealth and population there; and also whether the financial control of the railroad systems of the country, largely centered in Massachusetts, New York, and States adjoining, has not resulted in such an adjustment of rates as to drain the wealth from the interior of the country to Massachusetts and adjoining States?

Mr. LODGE. Mr. President, I will not enter into a tariff discussion at this point. In regard to the railroad rates, Mr. Prouty's argument, made in Boston, was that New England would be a great deal better off if she could only have an interstate commerce commission with larger powers; that they would give her better rates than she has now. That was his whole argument as addressed to New England, and it was an abso-

lutely sectional appeal. He took his hearers up into a high mountain at the board of trade dinner and showed them all the glories he was going to confer upon them when these enlarged powers were placed in the hands of the Interstate Commerce Commission. He did not take the view of the Senator from Nevada, that Massachusetts has been making rates favorable to herself, and I never heard anybody suggest for a moment that such rates were made by the railroads.

Mr. NEWLANDS. Mr. President, there was some testimony by Mr. Tuttle, of the Boston and Maine system, before our committee, Mr. Tuttle being one of the most intelligent and capable railroad men in the country, showing that Massachusetts had a watchful eye regarding the rates throughout the entire country; and the rates were so adjusted through the control of different railway systems as to secure a market for Massachusetts products in far-distant States. Whether that adjustment was right or wrong, I do not pretend to say, but it is very evident throughout the testimony that through the great railway managers who control these great systems (and recollect that the financial control is all in a very small area—New York, Massachusetts, and Pennsylvania) there is an organized system of so adjusting the rates as to advance these States of great population and wealth.

Mr. LODGE. Mr. President, I have failed signally in my attempt to convey my meaning to the Senator from Nevada. Mr. Prouty's argument in New England was that New England was suffering from undue discrimination, and he used as an argument that the rates in Iowa and the rates in Germany were a great deal lower than they were in New England. That is his argument. I leave the Senator from Nevada to discuss that with Mr. Prouty himself. What I want to show is that though the rates in New England are somewhat higher than they are in Iowa, Mr. Prouty did not have his facts quite correct, and that there is a good deal to be said by way of explanation.

In the first place, Mr. President, it was much more expensive to build the railroads of New England than to build the railroads in the West. It was an old, settled community. The land damages were very great and in a thousand ways the expenses of the railroads in New England far surpass those of roads in the newer parts of the country. For instance, this one single item will show what I mean. When the railroads began in Massachusetts and in New England generally they ran at grade crossings everywhere. The country was not then as thickly settled as it is now, but with the growth of population this condition became intolerable. We have therefore compelled the railroads to abolish those grade crossings, and in the last fifteen years the railroads have expended in Massachusetts $14,000,000 in abolishing grade crossings alone, having been forced to do it by acts of the legislature. Then, under our law we have no stock or bonds in any of our railroads which do not represent absolutely paid-up capital. There is no watered stock in the railroads. It has all been paid up under our corporation act. In order to earn even a very moderate dividend on these railroads it is absolutely necessary that the charges should be somewhat higher than in portions of the country where the original cost was very much less. It is also to be remembered that the Federal Government gave the Iowa railroads land of enormous value to assist them in the work of construction. A writer in the United States Investor for September 2, 1899, estimates that over 6,000,000 acres, about the area of the State of Massachusetts, was given by the Federal Government to the railroads of Iowa. In the same journal for November 25, 1899, Mr. W. W. Baldwin, the present assistant to the president of the Chicago, Burlington and Quincy Railroad, estimated that the grant was about 2,700,000 acres, or about half the area of Massachusetts. Of course in the old States there were no such aids to railroad building; there could not be in the nature of things.

Mr. Prouty takes as his principal standard of comparison the railroad haul from Boston to Newport, Vt., the town in which he lives, a small town near the Canadian line, I think. When he compares the railroad haul from Boston to Newport—250 miles—with the same distance in Iowa, it is almost as if one should compare an absolutely flat surface with the same distance measured up a mountain. In other words, the grades in Massachusetts have made the railroads very much more expensive. I have not been able to get any full information on the subject, but I believe that the grades in Iowa are practically nothing as compared with New England. For example, in going from Boston to Newport, Vt., over the White Mountain division, the train has to cross Warren Summit, where the altitude is 1,090 feet, thence it descends, and in going over the Passumpsic division it again reaches the altitude of 1,150 feet. It finally reaches Newport, which is at a level of 950 feet. If the freight trains should go over the Concord division they would have to go over Canaan Summit, which is 956 feet high, and then descending it must go over the Passumpsic division at the height of 1,150 feet. Such grades as these have added, of course, enormously, as I have just said, to the expense of the roads.

Without undertaking to discuss in detail all the intimations made by Mr. Prouty as to what the Commission would do in the way of reducing freight rates for the benefit of New England if it had the power, I was interested particularly by his suggestion that if this Interstate Commerce Commission secured its enlarged powers there ought to be a reduction of "millions of dollars" a year in the rates on coal consumed in New England. He explains that this reduction would not fall on the New England roads, but on the great coal-carrying roads of the country, mentioning the Delaware, Lackawanna and Western, the Reading, the Pennsylvania, the Baltimore and Ohio, the Norfolk and Western, and the Chesapeake and Ohio. Yet the Senator from Nevada a moment ago was pointing out to me that Massachusetts and New York control these railroads and were able to get low rates, and that is the reason why there was a prosperous and growing population. Here Mr. Prouty comes along and says that under a properly administered Interstate Commerce Commission there ought to be a saving of millions of dollars a year taken out of the coal roads outside of Massachusetts and New England. It is perfectly evident that if the charges of these roads on that proportion of their coal traffic destined for New England should be reduced proportionate reductions would have to be made on all their coal traffic, and if the reduction to New England alone should amount to millions of dollars, the total reduction would amount to many millions more. It will be remembered that when a delegation of railway employees called on the President and stated their objections to rate-making legislation he assured them that there would be no such reductions of rates as would affect their wages, and the advocates of this legislation have uniformly made light of the argument that it would endanger either the wages of employees or the incomes of the owners of railway securities. But if, according to Mr. Prouty, when they get new powers and begin to benefit New England by their rulings "millions of dollars" are to be cut off of the incomes of the roads on one item of traffic alone it must be apparent that this could not be carried very far without reducing wages and endangering dividends and interests on bonds.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. Certainly.

Mr. FORAKER. If it will not interrupt the Senator from Massachusetts, I call his attention in this connection to the fact that the only provision made in the Hepburn bill under which rates can be affected is a provision providing for the reduction of rates or the fixing of a maximum rate, which is generally regarded as a provision for reducing, because nobody expects the Commission to make rates higher. So there could not be any action taken by the Commission to relieve the people of the great burden that the Senator from South Carolina has so frequently referred to, except in the direction of reducing rates and reducing revenues, and thereby bringing about the result that the railroad men on the occasion mentioned were complaining of.

Mr. LODGE. These coal rates are one special grievance from which Mr. Prouty proposes to relieve New England, and he makes it appear that rates on coal to New England are higher than the coal rates either in Prussia or in Iowa. Assuming that the rates he cites are correct, I call attention to some testimony before the committee. Mr. H. S. Rand, president of the Burlington Lumber Company, in a letter to the Senate Committee on Interstate Commerce (pp. 3368 et seq., Report of Hearings), indicates that the Iowa coal rates are far from satisfactory to people doing business in Iowa. He says, on page 3371:

> Owing to the above, the Iowa rates on coal to Burlington are so high that our factories get their supply from Illinois.

He cites rates from Dunfermline, Ill., to Burlington, 88 miles, 85 cents per ton; from Peoria, Ill., 96 miles, 85 cents, and contrasts these with rates made by the Iowa commission from Avery, Iowa, to Burlington, 93 miles, 97 cents, and from Oskaloosa, Iowa, 105 miles, $1.01. In his testimony before the committee, on page 2194, Mr. Rand says:

> The principal reason why we do not have more manufacturing in Iowa is that it is more profitable to put your money into farming. Another reason is the inelasticity of our Iowa distance tariff—

Exactly what happened, if he is right, in every country in Europe where there are fixed Government rates—

> and another reason is that when you want outside people to come in and go into manufacturing they always find this Iowa distance-

tariff law, and they say: "If you are fools enough to make that kind of a law we will not live with you."

Mr. G. W. Trayer, engaged in coal mining in Illinois and Iowa, gave some interesting testimony (pp. 2224 et seq.) on the effect of Iowa rates on the coal business in that State. On page 2225 he said:

Instead of being manufactured at home with Iowa coal, Iowa corn and live stock are mainly sent out of the State, where Iowa coal can not naturally reach the manufacturer of them, or it is prevented in part by the same rate disabilities which sent the corn and live stock away. Missouri and Kansas coal go into Omaha on as favorable terms and relatively more favorable terms than Iowa coal does, and Missouri and Kansas coal go clear up to Sioux City on relatively more favorable terms. I am not speaking of absolute rates; I am speaking of relatively more favorable terms.

Mr. Murray Carleton, on page 2519, testified:

In Iowa, where rates are made by a State commission, the inelastic nature of the tariff, based only on distance, has driven practically everything except agriculture and mercantile business out of the State.

He quotes from the Des Moines Daily Capital of February 4, 1902, to show that the Iowa law is retarding the development of that State. Mr. E. T. Koch, traffic manager of T. M. Sinclair & Co., pork and beef packers at Cedar Rapids, Iowa (pp. 3320 et seq.), at the bottom of page 3323, said:

It is the railroads' arrangement of rates outside the State that makes it possible for the pork-packing industries within the State to thrive.

Then Mr. Prouty took up the cotton-manufacturing industry in New England, and intimated that New England was not treated fairly by the railroads, and suggesting that if the Hepburn bill should be passed the Commission would readjust the rates for the benefit of the cotton mills. The mills now have the advantage of water rates for their raw material, but their rates on finished goods are not so low relatively as Mr. Prouty thinks they should be, and he intimates that he would cut them to a level proportionately as far below first-class rates as the rates from southern mills are below first-class rates from southern points.

One of the points he made is that when they reduced rates from Atlanta to Chicago they reduced them more than they did the eastern rate, although by doing so the goods from Atlanta and Massachusetts came into Chicago on an equality. In this new propsition he would abandon considerations of distance, for the distance from Atlanta to Chicago is 275 miles shorter than the distance from New England. Notwithstanding this greater distance from the New England mills, he does not apparently believe that the southern roads should be permitted to make rates enabling southern cotton goods to compete in Chicago on equal terms with those of New England. They go in now on a parity, and he would have his audience believe that the Commission would interfere with the making of such rates as those on cotton goods from Atlanta when they are to the disadvantage of New England, but that when low rates are made to enable New England industries to compete on an equality in distant markets the Commission would not disturb the adjustment. He refers, for instance, to the rate on paper from Rumford Falls, Maine, to Chicago. He said:

That strikes me as an exceptional rate, made undoubtedly to enable the manufacturer at Rumford Falls to meet in the Chicago market the manufacturer of Wisconsin and Minnesota. Similar special rates exist in all parts of this country—

I am quoting from Mr. Prouty—

There is nothing in this proposed legislation which would in the slightest degree interfere with the maintenance of that rate or any corresponding rate.

It is a rate so low that he felt bound to call attention to it, but this statement as to the Rumford Falls rate can be reconciled with what Mr. Prouty said about the cotton-goods rates only on the assumption that his intimation that those rates would be reduced was merely meant to please his audience, or that he really believes—which I can not imagine—that the Commission would be influenced by sectional considerations and would interfere with rate adjustments enabling the South to compete on an equality with New England, but would not interfere with those enabling New England to compete on an equality with Wisconsin and Minnesota.

He also makes a suggestion in regard to boots and shoes, an enormous interest in New England, and especially in Massachusetts. It is hard to tell just what Mr. Prouty means in his reference to boots and shoes. He says he has a complaint that the classification is unjust. If he has, that is a matter which the Commission can deal with under the present law, for the United States court in Cincinnati, in the Proctor & Gamble case, recently sustained an order of the Commission changing the classification of soap in less than carload lots. If, then, there is a grievance and a complaint about boots and shoes in New England, as Mr. Prouty says there is, why does not his Commission remedy it now?

I will now give some detailed comparisons with rates in New England and Iowa in order to show how valueless comparisons are which are made on isolated examples.

No one denies that the average rates in New England are higher than in Iowa for the reasons I have already given as to the grades, cost of service, etc. If, however, one was to make comparisons, as Mr. Prouty does in his Boston speech, it is possible to make a very specious argument, taking the following samples of unusually low New England rates to show that because of the inefficiency of the Iowa State commission rates were very much higher than in New England. Eighty-five per cent of the railroad business in Iowa is through business, only 15 per cent being local. Taking New England, however, as one State about the size of Iowa, as Mr. Prouty did, it is a fact that about 80 per cent of the revenue of the Boston and Maine system would be local and only 20 per cent through traffic.

The following is a memorandum of low rates in force on the Boston and Maine Railroad, and if they stood alone and were used as Mr. Prouty used his examples, they would give an impression the reverse of that which he was seeking to convey:

Rate on crush stone, any distance over 100 miles and not over 150 miles, 75 cents per gross ton, carloads of 20 gross tons or more.

Rate on manure, any distance over 190 miles and not over 200 miles, 7⅞ cents per 100 pounds, carloads of 30,000 pounds or more.

Rate on slab wood and edgings from Newport, Vt., to Boston, Mass., $18.24 for not exceeding 30,000 pounds. The distance from Newport, Vt., to Boston, Mass., is 250 miles.

Rate on iron pyrites, Charlemont, Mass., to Boston, Mass., 87½ cents per gross ton of 2,240 pounds, carloads of 20 gross tons or more; distance, Charlemont, Mass., to Boston, 127 miles.

Rate on sand-struck brick, Mechanicsville, N. Y., to Boston, Mass., $1.80 per thousand, weighing between 4,500 and 5,000 pounds per thousand brick; distance, Mechanicsville, N. Y., to Boston, 189 miles.

Rate on import clay, Boston, Mass., to Mechanicsville, N. Y., carloads of 30,000 pounds or more, 10 cents per 100 pounds, a distance of 189 miles.

Class rates from Rockland, Me., to Pittsburg, Pa., a distance of 955 miles are:

$\frac{1}{50}$ $\frac{2}{43}$ $\frac{3}{33}$ $\frac{4}{24}$ $\frac{5}{20\frac{1}{2}}$ $\frac{6}{17}$ cents, and from Brunswick, Me., to Palatine Bridge, N. Y., via Rotterdam Junction and the West Shore Railroad, class rates are:

$\frac{1}{38}$ $\frac{2}{32}$ $\frac{3}{26}$ $\frac{4}{19\frac{1}{2}}$ $\frac{5}{17}$ $\frac{6}{15}$ cents for a distance of 378 miles.

It is hardly fair to draw any comparison between the rates on agricultural products transported in New England with the rates charged on similar commodities shipped within the State limits of Iowa. On the main lines of the railroads in Iowa the freight trains will haul from 2,000 to 2,800 tons gross in one train, whereas on the different divisions of the Boston and Maine Railroad they can not haul to a train a greater average than 1,000 tons gross, excepting on the southern division, from Concord, N. H., to Boston, where they haul about 1,800 tons gross. Let me take now some of Mr. Prouty's examples and examine them from the New England standpoint.

The rate on potatoes, carloads, from Newport, Vt., to Boston is 17 cents per 100 pounds—not 19 cents, as stated by Mr. Prouty. This 17-cent rate extends as far north as Sherbrooke, Province of Quebec, a distance of 273 miles from Boston, and to Swanton, Vt., a distance of 286 miles from Boston. The rate from points in northern Aroostook County, Me., to Boston is 21 cents per 100 pounds, as stated by Mr. Prouty, but there is in force a rate of 26 cents per 100 pounds, all rail, to Pier 50, East River, New York, the distance being 636 miles. Rate of 29½ cents per 100 pounds, quoted by Mr. Prouty, applies to Thirty-third street, New York City, via Troy, N. Y., and the New York Central Railroad. The distance is 736 miles, and the higher rate is charged on account of the increased distance and the added terminal charges of the delivering railroad. The supply of potatoes for the Boston market comes principally from Aroostook County, Me., the shipments from Vermont being limited. Considerable quantities are shipped from points in New York. The rate from a point in New York 250 miles from Boston, the same distance as from Newport to Boston, is 17 cents per 100 pounds, the same as the Newport rate, but a rate of 18½ cents per 100 pounds extends across the State of New York as far as Buffalo, a distance of nearly 500 miles. The rate from Ogdensburg, N. Y., to Boston, not to be exceeded from intermediate stations on the Rutland Railroad, a distance of 393 miles, is 17 cents per 100 pounds.

The rate on hay—carloads—Newport, Vt., to Boston, is 17 cents per 100 pounds, as stated by Mr. Prouty. This same rate extends to Sherbrooke, Province of Quebec, and Swanton, Vt., and an 18-cent rate extends beyond Sherbrooke, as far as Levis, Province of Quebec, a distance of 416 miles from Boston. An 18-cent rate also extends as far west as Ogdensburg, N. Y., on the Rutland Railroad, 393 miles, and an 18½-cent rate as far west as Buffalo, about 500 miles. Very little hay is shipped from Newport and vicinity, it being a dairy country, and the

hay is principally consumed on the farms. Last year there were shipped, all told, out of Newport, ten carloads of hay.

In establishing rates on such commodities as hay and potatoes, it is necessary, on account of commercial conditions, to have substantially the same rate cover a large area of territory, so that it would not be fair to cite a rate on hay and potatoes from a point like Newport, Vt., 250 miles from Boston, without considering the rates made from the entire territory from which the great bulk of the commodities is shipped. Mr. Prouty has explained the principle involved, in his reference to the milk case, in which he stated that beyond a distance of 190 miles the carriers might charge the same rate, no matter what the distance was.

It is true, as stated by Mr. Prouty, that the rate on lumber from Newport, Vt., to Hartford, Conn., a distance of 256 miles, is 15 cents per 100 pounds, but this same rate extends to Hoboken, N. J., via Rotterdam Junction, N. Y., and the West Shore Railroad, a distance of 450 miles; while a carload of lumber can be shipped from Newport to Pittsburg, Pa., a distance of 800 miles, at a rate of 17 cents per 100 pounds.

Mr. Prouty stated that the carload rate on butter, Newport to Boston, was 46 cents per 100 pounds. No one ever shipped a carload of butter from Newport to Boston to any one consignee. Butter is shipped from several different shippers to several different parties, in less than carload lots, and the rate is 45 cents per 100 pounds. A special butter train is run weekly throughout the year. The butter is picked up in small lots at all points along the line of the Passumpsic division, reaching Boston ready for early morning delivery the following day. In the summer time refrigerator cars are furnished, and every possible attention is given to this important traffic. Considering the service performed and the fact that the shipments are never made in carload lots, the 45-cent rate appears to be a reasonable one.

Mr. Prouty also said:

> It is possible that rates can be found which are lower for corresponding distances in New England than they are in either Iowa or Prussia. I know of none.

One of the great industries of Vermont is the granite business, considerable quantities of which are shipped from Mr. Prouty's home town—Newport, Vt. There is a rate in force on building stone, carloads, Newport to Albany, N. Y., of $1.26 per ton, divided among two railroads, and netting the Boston and Maine Railroad 96 cents per ton for its haul of 278 miles, from Newport to Troy, N. Y. This pays the Boston and Maine Railroad a rate of 3 mills per ton per mile. There is also a rate of 18 cents per 100 pounds on building stone, carloads, Newport to Chicago, Ill., via Sherbrooke, Province of Quebec, and Grand Trunk Railway, a distance of 981 miles, 3.67 mills per ton per mile; also a rate of 6 cents per 100 pounds on paving and curbing stone, carloads, Newport to Troy, N. Y., a distance of 278 miles, 4 mills per ton per mile; also a rate of 15 cents per 100 pounds on building stone, carloads, Newport to Pittsburg, Pa., a distance of 800 miles, 3.71 mills per ton per mile. Perhaps rates lower than three and four-tenths of a cent per ton per mile can be found in Iowa and Germany, but they certainly do not show themselves at once to the investigator in either case.

Now, let us look at Mr. Prouty's argument from the Iowa side so far as I have been able to get the figures. The rate on potatoes, let me say in passing, for 250 miles in Iowa is 13.05 cents instead of 12½ cents, as stated by Mr. Prouty. It is not fair, however, to draw any comparisons between rates on agricultural products applicable in the mountainous and rough New England States, where the cost of building railroads and operating railroads is very many times greater than in Iowa, and whose principal industry is manufacturing, with the rates applicable in the flat prairie State of Iowa, where on the main lines of our railroads freight trains of from 2,000 to 2,800 tons gross are hauled in one train, where there is practically no industry except agriculture, and where the entire traffic originating in the State is composed of farm products of one kind or another. It would be just as fair to compare the average yield of farm products per acre of the total acreage of the State of Vermont with the average yield per acre in Iowa.

On potatoes and hay the comparison seems to be very unfavorable to New England, but probably not more so than the relative tonnage and importance of the agricultural products to the entire tonnage moved in Iowa and in the New England States or the tonnage of these commodities raised in Iowa and in New England. Hay is one of the most important crops of that State. The principal market for Iowa hay is in the far South and East, where the mileage is very long, and the rates to these markets have to be on a very low basis to permit the marketing of hay at all. It is probable that the low rates made for long mileages over which hay is actually moved largely influenced the Commission in the low rates which they made on State business and on which very little hay is shipped, each section of Iowa producing all the hay required for local consumption.

Butter rates in Iowa are very low, as any butter moved in this State in carloads is not for consumption, but is for concentration, to be reshipped later to eastern cities, principally New York, Philadelphia, and Baltimore.

On lumber carloads the New England rates compare very favorably with Iowa rates, taking into consideration the cost of construction and cost of operation of New England railroads.

Mr. Prouty states that there is now very little claim on the part of the Iowa railroads that these Iowa rates are too low. Yet the railroads refuse to accept on interstate business—which is naturally long-haul business which justifies the railroads in handling it at a lower rate per ton per mile than should in all fairness be charged on short-haul business—as their fair proportion, the rates fixed by the Commissioners, and in many instances their proportion of such interstate rates on the usually accepted bases of divisions gives them higher earnings than would the Commissioners' rates. This is recognized by connecting railroads not reaching Iowa and who do not demand of the Iowa lines that they accept for their earnings the State rates, nor do the railroads permit of the application on interstate traffic of the combination of rates on stations situated on the Iowa State line where such combinations would make a lower through rate on interstate traffic than that authorized in the regularly published interstate tariffs. The reason that the low rates of Iowa have not seriously embarrassed the railroads is that only a very small percentage of the traffic handled in this State is local within the State. About 85 per cent of the traffic is said to be interstate and consequently not affected by the Commissioners' rates. Furthermore and most important, these low rates have prevented the railroads from making any joint rates locally in the State of Iowa, on the ground that the Commissioners' rates are so unreasonably low that no railroad can afford to accept any less than these rates in the forming of joint through rates between points on two different railroads, and a rate from a point on one railroad to a point on another railroad is made by adding the rates to and from the junction point of the two lines, there being no joint rates or through rates applicable over the continuous mileage of two different railroads.

Let us apply the Iowa conditions to the less than carload shipments of copper wire, dynamos, etc., referred to by Mr. Prouty, and the rates would be as follows:

On copper wire, less than a carload, from Providence, R. I., of which Phillipsdale is practically a suburb, to Bradford, Vt., the rate would be on the Iowa basis as just described:

	Miles.	Cents.
Providence to Boston, via the N. Y., N. H. & H.	45	16.49
Boston to Bradford, Vt.	173	27.75
Through	218	44.24

Instead of 32.16 cents, as stated by Mr. Prouty.

On dynamos and transformers, less than carload, from Pittsfield, Mass., to Bradford, Vt., the rate would be:

	Miles.	Cents.
Pittsfield, Mass., to Springfield, Mass., via the Boston and Albany	52	20.4
Springfield, Mass., to Bradford, Vt.	247	48
Through	299	68.4

Instead of 54.4 cents, as stated by Mr. Prouty.

Carrying this principle still further, the rates from Newport, Vt., to New York, via the most direct lines, would be made as follows on the Iowa basis:

POTATOES (CARLOADS).

	Miles.	Cents.
Newport to Springfield, Mass., via Boston and Maine	324	16.5
Springfield to New York, via New York, New Haven and Hartford	136	8.8
Through	460	25.3

HAY (CARLOADS).

Newport to Springfield	324	14
Springfield to New York	136	7.36
Through	460	21.36

BUTTER (CARLOADS).

	Miles.	Cents.
Newport to Springfield	324	31.5
Springfield to New York	136	18.8
Through	460	50.3

LUMBER (CARLOADS).

	Miles.	Cents.
Newport to Springfield	324	11.13
Springfield to New York	136	7.18
Through	460	18.31

In the opposite direction:

FERTILIZER (CARLOADS).

	Miles.	Cents.
New York to Springfield	136	6.24
Springfield to Newport	324	12.50
Through	460	18.74

SUGAR (CARLOADS).

	Miles.	Cents.
New York to Springfield	136	10.72
Springfield to Newport	324	21.50
Through	460	32.22

I wish now to say a single word in regard to the comparison with Prussia. I have seen much discussion and have read a number of answers to Mr. Meyer's book, and I have seen extracts from the report of the Prussian commissioners to which the Senator from South Carolina [Mr. TILLMAN] referred when I spoke before, and I have not yet seen anything which meets the main point that I then made. They upset Mr. Meyer's proposition about milk rates into Berlin, a point to which I did not allude and which seemed to me of no great moment, but they do not touch the main argument which I ventured to offer when I discussed that question before.

In making any comparison with a European country let me say at the outset we overlook too much the fact that we are dealing with a huge system in this country, a system of 212,000 miles—more than all Europe—while all these systems of individual countries in Europe are little systems easily managed in comparison with ours. This fact ought always to be kept steadily in mind in this discussion of comparative rates.

I know of no publication in this country giving details as to Prussian rates by which Mr. Prouty's figures can be checked. I understand that the Commission sent a man abroad last summer and it is probable that these figures were obtained by him. In any event Mr. Prouty's use of the figures is such as to create the impression that Prussian rates are lower than those in New England or in Iowa. They seem to be so in the specific cases which he cites. Yet the fact remains that the average rate per ton per mile in Prussia is far above the average rate in the United States. Mr. Prouty does not think that comparison should be made on the ton-mile basis, but that basis seems to me to be the only one on which intelligent comparisons of average rates can be made. It is undoubtedly true that the average in America is brought down by the large volume of long-distance low-class traffic. Mr. Prouty would have us believe that the rates in Prussia are not similarly reduced by low-class traffic because that traffic in Prussia moves by water. I am satisfied from my own investigations that the reason is just the other way and that the low-class traffic in Germany goes by water because the railroad rates are high.

Mr. Prouty says that the fact that there are no express companies in Prussia has the effect of increasing the average ton-mile rate, as small packages are handled by rail on express time and at higher rates than are charged for ordinary service. He says nothing of the fact that the German Government operates a parcels-post service, carrying packages up to 110 pounds in weight (50 kilos) (see Pratt's Railways and their Rates), and that the great bulk of the business done by express companies in the United States is done by the parcels post in Germany, which is excluded from computation because it is government postal business, thus lowering the average returned rate. Moreover, if it is fair to direct attention to the fact that the average Prussian rate is increased by the higher charges for fast freight, it is equally fair to direct attention to the way in which the average rate in the United States is increased by fast-freight service in this country, such as the fruit and vegetable trains, that are moved on schedules faster than those of many passenger trains and on which the rate per ton per mile is far in excess of the average for the United States. Taking these things into consideration, the comparison based on rates per ton-mile is not unjust to Germany. As a matter of fact, German rates ought to be lower than those in the United States. Germany as a whole is a much more densely populated country and ought to have a much greater density of railroad traffic, and density of traffic is the most powerful factor in rate reduction. Another reason why rates should be lower in Germany than in the United States is that the wages of railway employees in Germany are much lower. The pay of employees on the railways of the United States makes up about two-thirds of the total cost of operation. On page 3126 of the Senate hearings Mr. Slason Thompson gives an unsatisfactory table of comparison of railway wages in the United States and other countries. The figures he gives for the United States are not an average for all employees, but are the average for "other trackmen," as given by the statistician of the Interstate Commerce Commission for 1903. This is the lowest-paid class of American railway labor, and the average for 1903 was $1.31. He gives the average German wage at 57 cents per day, but does not say what class of labor it represents. If Mr. Thompson's figures for Germany represent the lowest-paid class in that country, and the other classes are paid in about the same proportion, it would make the daily wage of a German railway engineer about $1.75 per day, against an average of $4.01 in the United States in 1903 and $4.10 in 1904. That the wages of a German engineer are probably below $1.75 would seem to be indicated by the fact that according to some figures published by the Bureau of Manufactures in the Department of Commerce and Labor, about the 1st of last September, the average wage of a locomotive engineer in England is $1.62 per day, and that of an engineer in Belgium $1.01. Mr. Thompson gave these same figures on page 3127 of the Senate committee hearings. The Fifteenth Annual Report of the Commissioner of Labor on Wages in Commercial Countries has some better data as to the daily wages of railway employees in Germany in 1898. The figures given for locomotive engineers range from $1.19 to $1.83 per day; for locomotive firemen, from 78 cents to $1.43, and for conductors, from 51 cents to $1.56 per day. The average wages of these same classes of employees in the United States in 1898 were: Locomotive engineers, $3.72 per day; firemen, $2.09, and conductors, $3.13. In 1904, the latest year for which statistics are published, these wages in the United States were: Locomotive engineers, $4.10; firemen, $2.35, and conductors, $3.50. These figures speak for themselves and require no comment.

Mr. Prouty further says that German passenger rates are lower than ours. How he reaches such a conclusion I can not imagine. I have traveled in Germany a good deal. I have made some investigations in these matters there out of curiosity. I did so last summer as to their passenger rates. Their passenger rates, as I found them, are much higher than ours. If Mr. Prouty reaches his conclusion by taking their third-class rate, which involves a car that no American would travel in, I can imagine that he might probably reduce their rates of passengers to a low rate; but even then I do not see how he can get it down lower than our passenger rates on the average, because ours are the lowest in the world, and our cars are incomparably better than the best German cars.

I have looked at Rolfe's Satchel Guide to Europe, 1905, which, according to the title page, is revised annually, and I find some German rates, with distances stated in miles. From Leipzig to Berlin, 101 miles, the rates are: Express, 15.40 and 11.80 marks; ordinary, 13.20, 9.90, and 7.20 marks. Counting the value of a mark at 23.8 cents, would make the first-class rate on express trains $3.6652, or about 3.66 cents per mile; second-class express, $2.8084, or about 2.80 cents per mile; first class on ordinary trains, $3.1416, or about 3.14 cents per mile; second class on ordinary trains, $2.3562, or about 2.35 cents per mile, and third class on ordinary trains, $1.7136, or about 1.71 cents per mile. For the year ended June 30, 1904, the average passenger rate in the United States was 2.006 cents per mile, which is far below any service of equal goodness anywhere in Europe. This rate has increased very slightly in recent years, owing to the effect of the trolley lines in taking off of the steam railways a considerable proportion of their short-distance traffic carried on commutation rates. The effect of the voluntary and compulsory reductions in passenger rates being made during the current year will, of course, have a decided effect on the average rate. You will note that in these Leipzig-Berlin rates not only the first-class, but the second-class rates as well, are above the average in the United States. As a sample of short-distance German rates, I find that from Berlin to Potsdam, 16 miles, with a first-class rate of 2.10; second class, 1.60, and third class, 1.05

marks; equivalent, respectively, to 49.98 cents, 38.08 cents, and 24.90 cents. These rates per mile would be about 3.12 cents, 2.38 cents, and 1.56 cents. Other rates given in this guide book would figure out about the same.

Mr. Slason Thompson, on page 3126 of the Senate hearings, under the head of foreign passenger rates, says:

Germany.—Fast trains: First class, 3.45 cents; second, 2.55; third, 1.79. Ordinary trains: First, 3.06 cents; second, 2.3; third, 1.53, and fourth, 0.77 (not allowed on fast trains); average receipts per passenger mile about 1.07 cents, due to 90 per cent of travel being third and fourth class on cars little better than American box cars.

I can not understand how Mr. Prouty makes the average Prussian passenger rate 9 mills per mile, unless he includes all classes and divides the total receipts by the number of passengers carried 1 mile, including all free passengers, which would include the large number of soldiers transported every year.

Mr. SCOTT. Will the Senator from Massachusetts allow me a moment?

Mr. LODGE. With pleasure.

Mr. SCOTT. As to the accommodations between Leipzig and Berlin, the rails and the cars that are run on them are perhaps the best they have in Germany. Is not that true?

Mr. LODGE. Yes; and that is the reason why I took it for comparison.

Now, Mr. President, Mr. Prouty also took up the case of port differentials. The Senator from Ohio in that very great agrument which he made the other day, in discussing the question of port differentials, pointed out that by their action on port differentials the Commission had the power to close the port of Boston to-morrow if they so pleased. They could indeed close every port in New England, and our seaboard is the one great natural gift that we have. I am not going to argue this point elaborately, for I have already taken much more time than I ought to have taken, and I will try to dispose of it in a few sentences.

Mr. Prouty's reference to port differentials raises the question of what might be expected if the Commission should undertake to fix export rates to the several ports under the Hepburn bill. Their action in making the recent arbitral award was entirely extra-official, and their award has no more force than that given it by the agreement of the commercial bodies to submit the controversy to arbitration and abide by the decision. If, however, they should undertake to fix port rates under the Hepburn bill, their action would be official, and the question would be brought up whether they would not be governed by the clause of the Constitution prohibiting the giving of any preference to the ports of one State over those of another by any regulation of commerce or revenue. If the courts should hold that the power to fix port rates was subject to this limitation, it is difficult to see how export rates to the ports could be made on any but a mileage basis. The short distance from Chicago to Boston is 1,001 miles; to New York, 912 miles; to Philadelphia, 822 miles, and to Baltimore, 801 miles. It is apparent, therefore, that mileage rates on export grain would not only give to Philadelphia and Baltimore increased advantages on the inland rates as compared with Boston, but would give to New York an advantage over Boston, while at present Boston and New York have equal rates.

As an example of the manner in which the Commission now deals with this vital question let me cite the following case: Export grain is carried from the West by lake vessels both to Buffalo, N. Y., and to Fairport, Ohio. Thence the grain is carried by rail from Buffalo to Boston over the New York Central and Boston and Maine lines, and from Fairport to Baltimore over the Baltimore and Ohio Railroad. The distance from Fairport to Baltimore and from Buffalo to Boston happens to be the same—480 miles. There was absolutely no evidence introduced to show that there was any difference in the railroad cost of hauling grain from Fairport to Baltimore as compared with Buffalo to Boston, yet the Commission ruled that all grain carried from Buffalo to Boston must take a rate of one-sixth of a cent per bushel higher on oats and barley and three-tenths of a cent per bushel higher on wheat, corn, and rye than between Fairport and Baltimore.

But I ask leave of the Senate to print some further facts in regard to the port differentials which I have here, an extract from one of the Boston newspapers.

The paper is as follows:

ATTACKS FACTS CITED BY PROUTY—"MERCHANT" DOUBTS THE INTERSTATE COMMISSIONER'S SINCERITY IN RAISING THE CASE OF IOWA FOR COMPARISON.

To the Editor of The Herald:

While to the casual reader the address delivered by Mr. Prouty, the Interstate Commerce Commissioner, before the State Board of Trade yesterday may seem a powerful argument in favor of greater control on the part of the Interstate Commerce Commission of railroad rates, yet a critical examination will show the absurdity of some of the statements put forth by Mr. Prouty.

He evidently desires the people of Massachusetts to believe that if increased power is given to the Interstate Commerce Commission rates in Massachusetts generally will be lowered, the implication being that railroad rates are now higher here than they should be. He cites the case of Iowa, and compares it with Massachusetts and other New England States, claiming that the rates in Iowa are lower than in Massachusetts because Iowa has a railroad commission having powers similar to those now desired by the Interstate Commerce Commission. It is almost impossible to credit Mr. Prouty with sincerity in advancing such an argument.

In the first place, the advisory decisions of the Massachusetts railroad commission are as effective as the decrees of the Iowa State commission, or any other State commission.

Secondly, Iowa can not properly be compared with Massachusetts. Iowa is an agricultural State, relatively speaking, it has very few manufactures. Its great products are corn, cattle, and hogs. To compare its fertile prairies with the rocky soil of New England and claim that rates should be as low in Massachusetts, with its unproductive soil, heavy grades, expensive tunnels, and high cost of fuel, is simply disingenuous.

The railroad mileage in Iowa is over 9,000 miles; in Massachusetts, 2,000. Iowa has 41 miles of railroad to every 10,000 inhabitants; Massachusetts has only 7 miles. On the other hand, the Massachusetts railroads are taxed $1,400 per mile of line, while the Iowa railroads are taxed only $200 per mile. Iowa has an ample supply of domestic coal; Massachusetts has none.

If Mr. Prouty will read the testimony recently taken before the Senate committee at Washington he will find that witness after witness testified that rates in the State of Iowa were inelastic, owing to the decisions of the State commission; that its railroads universally charged the full maximum rates, and that as a result Iowa has no large cities, its manufacturers have not increased, it has no large jobbing houses, and seems destined to remain forever an agricultural State—practically because of the fact that its local railroad charges are fixed by the commission.

Furthermore, if the rates in Massachusetts and Iowa were to depend solely upon cost of railroad transportation, it is clear that rates much higher than those of Iowa would be justified on the ground of extra expense.

In speaking of the recent controversy as to port differentials between the Atlantic seaports, Mr. Prouty again misstates the position of Boston. He said:

"Boston claimed that we should take away the entire advantage of Baltimore upon the land and should compel it to bear the entire burden of its disadvantage upon the ocean."

The above statement is not true. Boston claimed that the through rates from the West to Europe should be the same, whether the merchandise went on board the steamer at Boston, New York, Philadelphia, or Baltimore. The Commission decided that for years the through rates by way of Baltimore and Philadelphia had been lower than through Boston, and that Philadelphia and Baltimore had a right to a lower through rate. Boston claimed, furthermore, that if the Commission decided to give Baltimore and Philadelphia a differential against New York, logic should compel it to give the same differential to Boston, which claim the Commission refused to concede.

Boston showed conclusively that steamship rates were little, if any, higher at the southern ports than at Boston; that the cost of handling cargo was much higher at Boston than at the southern ports, and that if there were any steamship advantages at Boston over the southern ports they were more than compensated by the shorter land haul to said latter ports.

The Commission decided, largely on the ground of distance, that the southern roads should have lower railroad rates on this export traffic than Boston, entirely ignoring the fact that on the through distance from the West, for example, to Liverpool Boston is over 200 miles shorter, at least a day's sailing on an average freight steamer.

The remarks by Mr. Prouty show an amount of misinformation almost appalling.

MERCHANT.

Mr. LODGE. Also, Mr. President, to show how much this law involves and why it means so much to our people, I wish to introduce a few statistics in regard to the port of Boston, which is to be put absolutely at the mercy of this Interstate Commerce Commission, and then ask if it is unreasonable that we should desire provisions which would protect us, in common with the rest of this country, so far as possible against injudicious or hasty action, and let it be remembered that what we ask for ourselves is just as important to every other corner in the country and every other State, great or small.

For the fiscal year ending June 30, 1905, Boston was the second port in the country, with aggregate receipts of $24,369,384.72. For the seven months ending February 1, 1906, Boston was again the second port in the country, with aggregate receipts of $16,236,365.76. I will ask leave to print these and some additional figures in my speech.

The VICE-PRESIDENT. Without objection, leave will be granted.

The figures referred to are as follows:

[Extracts from annual report of the Secretary of the Treasury.]

Fiscal year ended June 30, 1905.

Name of port.	Duties and tonnage tax.	Aggregate receipts.	Cost to collect $1.
Baltimore	$3,154,535.50	$3,314,349.41	$0.082
Boston	24,369,384.72	24,578,214.28	.033
Chicago	7,950,855.35	7,964,313.73	.031
New Orleans	5,461,144.72	5,491,270.35	.052
New York	172,580,741.04	174,574,127.16	.021
Philadelphia	18,907,963.55	19,005,414.00	.090
San Francisco	7,406,535.09	7,462,452.26	.065

Fiscal year ending July 1, 1906.

For seven months ending February 1, 1906:

Boston	$16,236,365.76
New York	118,996,502.00
Philadelphia	12,153,878.42
Chicago	6,285,832.04
New Orleans	3,414,056.99
San Francisco	4,371,437.31

Mr. LODGE. Mr. President, it is within the power of those who administer this law, it is within the power of any Executive who appoints these Commissioners, and of the Commission itself, to make or unmake the fortunes of any portion of the country.

Mr. SCOTT. Mr. President, will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from West Virginia?

Mr. LODGE. Certainly.

Mr. SCOTT. If the Commission made a rate per ton per mile, would it not, in the Senator's judgment, ruin the coal interests of my own State of West Virginia?

Mr. LODGE. Certainly; beyond doubt.

Every State is vulnerable; but there is no part of the country that is so vulnerable as New England, New York, and New Jersey. New England has her seaboard, with some forests in Maine, and a few granite quarries, and then you come pretty much to an end of her economic possessions which can not be taken from her. New York has her marvelous port, which nothing can take from her, and she has her highway to the Lakes; but we in the East have no mines, we have no indefinite tracts of fertile soil, we have no coal, and we have no iron. We must go to the States of the South to get our cotton; we must go to the Middle States to get our iron and our coal; we must go to the West to get our leather and our food stuffs; we must bring into New England everything that we manufacture, and our manufactures constitute the wealth of those six States.

Mr. FORAKER. I should like to ask the Senator whether or not he ever made a calculation to ascertain how much cotton he would get for the cotton mills of New England if the rates were fixed upon a mileage basis or anything approximating that?

Mr. LODGE. Why, Mr. President, if rates were fixed upon a mileage basis, every manufacturing industry in New England would go out of existence; it would turn it all into a desert. If you should, in addition, abolish differentials, you would send the entire exports of the country to New York chiefly and, in a smaller degree, Boston; you would have in New England one great city, Boston, and behind it nothing. We have now a uniform rate stretching—I take this as an illustration, of course it would go further, but I take simply the New England territory—we have a uniform rate from North Adams, a town on the western border of my State, to Waterville in Maine. The whole intervening territory between, north and south of that line and 300 miles in width, is filled with industries giving life and support to thousands of human beings. But force upon them a mileage rate, fix a distance rate, and you drive every industry back to the North Adams line.

Mr. NELSON. Will the Senator yield to me for a question?

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Minnesota?

Mr. LODGE. Certainly.

Mr. NELSON. Is there any proposition in this bill to make a distance mileage rate?

Mr. LODGE. No, Mr. President; none absolutely requiring a distance rate.

Mr. NELSON. Then what is the use of discussing it?

Mr. LODGE. Mr. President, I can discuss this subject in any manner I feel inclined to; and one way of discussing it is to point out what an enormous stake my section of the country and your section of the country, Mr. President, have in it. I am trying now to show the enormous possibilities for evil as well as for good which are contained in this bill. I want this legislation, and am just as anxious for it as the Senator from Minnesota. There is no part of the country which needs proper railroad regulation and supervision more than New England, and there is none which needs to have that legislation better guarded than New England, New York, and New Jersey.

Mr. FORAKER. I should like to ask the Senator, or any Senator who can give the information, whether or not the Interstate Commerce Commission, when it has undertaken to fix rates, has ever undertaken to fix rates except either upon the mileage basis or what approximated to a mileage basis. Did they ever do it, or is it possible to do it?

Mr. PERKINS. I should like to ask the Senator from Massachusetts what, in his opinion, would be the effect of a mileage rate applied to the citrus and other fruits of California?

Mr. LODGE. I think the result will be that you will have to sell them all in the Philippines. [Laughter.]

Mr. FORAKER. If the Senator from Massachusetts [Mr. LODGE] will allow me, I will give the Senator from California [Mr. PERKINS] a bit of information on that point. I am in receipt of a letter from Milford, Del., making bitter complaint that the citrus-fruit growers of California are allowed the same rates to New York as they are charged in Delaware. [Laughter.]

Mr. LODGE. Mr. President, my point is not to charge anything against the Interstate Commerce Commission. I am trying to argue simply the importance of having a commission worthy to undertake this work and, further, the necessity of guarding it by a proper access to the courts, but this speech about New England was made by an Interstate Commerce Commissioner in my own State and my own city, and I wish to reply to it. I wish to show why we are so very anxious to have this bill, when it passes, a safe as well as an effective bill.

I was describing when I was interrupted the conditions of New England, her natural endowments, and those of New York and New Jersey, for they are practically in the same class, in order to point out that we were peculiarly vulnerable, because our prosperity rests upon our experience, our traditions, our invested capital, and on our organization of workingmen and of industry. With unjust treatment all these conditions can be easily broken down and disappear.

In order to demonstrate what I have just said I desire now to call attention to some of the interests of New England and to show how dependent we are upon railroad rates. I saw it stated the other day in some newspaper that the New England Senators were dominated by the special interests of New England, by the manufacturing and the railroad interests. Why, Mr. President, in the manufacturing industries of my State alone there are, according to the census of 1900, 500,000 people engaged. To-day in the railroads of the State, little State as it is, there are 60,156 people engaged. In other words, there are from a million and a half to two millions of the population of Massachusetts absolutely dependent on the well-being of the industries and the railroads of the State, and if I am not to represent the interests of those people, whose interests am I sent here to represent? I may be very easily mistaken in my view of this bill, but certainly the only influence which guides me is my desire to protect and guard the interests which give my State life and prosperity and which furnish income and employment to the people who live within its borders. That is the only motive that influences any Senator from New England or from any State in the Union.

Mr. President, I now wish to call attention very briefly to a few figures which I have put down here simply to show how important this matter of railroad rates is to us. Mr. Prouty thinks we are not fairly treated now. That may or may not be the case, but what we want is that the Government regulations shall be guarded and shall be safe.

The area of Massachusetts is 8,040 square miles. Her population to-day is 3,003,680, with a density of population of 348.9 to the square mile. The gross value of her agricultural products is $42,298,274, or $15 per capita. The gross value of her manufactured products is $1,035,198,989, or $369 per capita. Her agricultural and manufactured products together amount to $384 per capita.

Let me quote at this point the following extract from the inaugural message of Governor Guild, of Massachusetts:

> Of all the States and Territories on this continent only four contain a smaller area. Because of geographical limitation, as well as from a notable lack of mineral deposits, forests, and rich arable soil, a slow rate of gain in material prosperity might logically be expected of Massachusetts in comparison with many States possessing greater natural advantages. Yet, on the contrary, at the last taking of our national census it was found that Massachusetts, fifth from the foot in area, is seventh from the top in population, fifth from the top in the annual value of her manufactures, and third from the top in the annual amount paid in wages. Measured by assessed valuation of the property in her borders, Massachusetts is exceeded by but two States. Fifth from the foot in area, Massachusetts is third from the top in wealth.
>
> * * * * * * *
>
> Our Massachusetts census, just taken, tells a wonderful story. Immigration does not swarm to hopeless fields. In the decade between 1895 and 1905 Massachusetts added over half a million to her population. It is extraordinary that this great increase, which is, within less than fifty thousand, the same increase that was shown between 1885 and 1895, should have been possible in what was and is, with one exception, the most densely populated State in the Union.
>
> It is more extraordinary that this half million of increase, largely immigrants, should be not merely vast in proportion to area, but, with four exceptions only, larger in actual numbers than the increase shown by any other State or Territory in the whole United States.
>
> The annual value of the manufactured products of Massachusetts increased by but $175,173,033 between 1885 and 1895. It increased by $300,267,558 between 1895 and 1905. The total value of goods made in Massachusetts was $1,150,074,860 in 1905.
>
> The increase in the value of the annual product of cotton goods from

1885 to 1895 was $32,190,463. From 1895 to 1905, in spite of southern competition, it was $38,949,280. The increase in our wool and worsted products between 1885 and 1895 was $7,400,533. Between 1895 and 1905 it was $50,581,514. The increase in our shoe product between 1885 and 1895 was $7,405,548. Between 1895 and 1905 it was $70,271,966.

On October 31 the total amount on deposit in our savings banks was, in 1885, $274,998,412; in 1895, $439,269,861, and in 1905, $662,808,312. The increase in the last decade was greater by over $58,000,000 than in the decade that preceded it. In 1885 the average deposit for each person of population was $141.64; in 1895, $175.69, and in 1905, $220.67. The gain in deposits per capita in the last decade was greater by nearly a third than the gain in the preceding decade.

Massachusetts is the forty-first State in area in the United States; she is the thirty-first in agriculture; she is seventh in population; she is second in density of population, and she is fourth in manufactures. Among all the States in the Union in the capital invested in manufactures Massachusetts is third; in wages paid she is third, and in the number of wage-earners she is third.

New England has an area of 69,973 square miles; a population of 5,592,017. The gross value of her agricultural products is $169,523,435; the gross value of her manufactured products is $1,875,792,081, making a grand total of $2,045,315,516. Of all the capital invested in the United States New England represents almost 20 per cent, and with the Middle States 60 per cent.

Among all the States and Territories of the Union, Massachusetts is—

In textiles first, with $212,000,000 (Pennsylvania second, with $160,000,000).

In cotton goods first, with $110,000,000 (South Carolina second with $30,000,000).

In woolen goods first, with $73,000,000 (Pennsylvania second with $49,000,000).

In boots and shoes first, with $117,000,000 (New York second, with $25,000,000. Total for whole United States, $261,000,000).

In paper and wood pulp second, with $22,000,000 (New York first, with $26,000,000).

In proportion of wage-earners to total population:

	Per cent.
Rhode Island first	21
Connecticut second	19¼
Massachusetts third	18
New Hampshire fourth	17
New Jersey fifth	13
Delaware sixth	12
New York seventh	12
Pennsylvania eighth	12
Maine ninth	11
Vermont twelfth	8¼

Mr. President, on the industries which those figures indicate there are a great many people dependent for life, for existence, for their daily wage, for their homes.

Let me call attention to another point. Nothing is more common here than to describe with noble indignation the half-dozen men in New York who get together and make the rates, as if all we had to do was to break their power, and as if that was all that was involved. I desire, Mr. President, simply to call attention to the misleading character of such statements, and I take the figures from my own State as an example.

The Commonwealth of Massachusetts in its sinking funds, established for paying the outstanding indebtedness of the State, holds Fitchburg Railroad bonds for $5,000,000; Boston and Maine Railroad bonds, $5,000,000. The amount of railroad securities held by our Massachusetts savings banks and trust companies is $152,551,438.08. The total amount of deposits in the Massachusetts savings banks on October 31, 1905, was $662,808,312, divided among 1,829,487 open accounts. (See p. 5, Savings Bank Report.) Under the law no account can be over $1,000, and the average of such accounts deposited is $362.29. In those institutions, under a carefully guarded law, of those savings of our working people, $662,808,312, in all there is $152,000,000 invested in railroad securities of different kinds. The total amount of stock of Massachusetts railroads held in Massachusetts is $129,055,425, divided among 36,201 Massachusetts holders. These figures were furnished by the accountant of the railroad commissioners of this State as of June 30, 1905, and their report gives a good statement of the railroad situation in Massachusetts. This makes an aggregate of $291,606,863 of railroad securities held in Massachusetts, exclusive of bonds held by life and fire insurance companies and national banks.

Mr. President, in this great measure we are dealing with the fortunes of all those people, and this law is capable of bringing them to ruin or of maintaining them in prosperity. Is it any wonder that we, their representatives, should be anxious about it? We have not in New England, as I have said, great natural endowments, the mere possession of which gives wealth. Whatever we have there we have worked for hard. We ask for no discriminations in our favor. We ask merely for the equality of treatment that every portion of the Union ought to have. But what we possess is perhaps to a greater extent than is true of any other portion of the country the result of more than two centuries of unremitting toil.

Inde durum genus sumus experiensque laborum.

Naturally in that dense population, dependent almost entirely on manufacturing industry, there is great anxiety as to the passage and the terms of this great bill.

Mr. President, I repeat what I said at the beginning, that, with these great interests, New England desires a good railroad-rate bill. She desires, in my judgment, proper railroad regulation and supervision, and she desires the Commission to be made up of the highest ability and best men we can get. I am sure that the Senators from New England represent her when they say that access to the courts should be preserved; that every man in this country is entitled to his day in court.

The Senator from Texas [Mr. BAILEY], toward the close of his very able argument on Monday last, said that to create distrust in the courts was to do the country irreparable injury, but that it was an even greater injury to teach a debasing belief in the infallibility of the courts. With that proposition I am in full accord. A debasing belief in the infallibility of any human institution or in human beings clothed with any function is a peril of the most serious kind, but I do not think that this point is a practical one. It does not seem to me that we are in any danger at this moment from too great belief in any man or too great reverence for any institution. On the other hand, I think that there is a very great danger, indeed, of the creation of that distrust of our institutions of government which the Senator from Texas spoke of as an irreparable injury to the country.

It is the fashion at this moment in certain quarters to indulge in furious attacks, and with utter disregard of truth, not only upon all our institutions of government, but upon our character as a people and the conduct of both our public and our private affairs. Concocting slanders and heaping together falsehoods for the purpose of selling them is not a pleasing trade, and when carried on in the name of virtue and reform it is a peculiarly repulsive one. To seek in this way to gratify that envy which is, unfortunately, not uncommon in human nature, or thus to take advantage for hire and salary of popular passions or of righteous popular indignation at proved wrongdoing, is a miserable calling and morally on a very low level. Slander and misrepresentation directed against individuals are not of much importance. If a man, whether engaged in public or private business, is not able by his character and his honesty to withstand such assaults, he is of little worth. As Doctor Johnson wisely said, "No man was ever written down except by himself." Men, moreover, are evanescent. Slanderer and slandered soon fade away and disappear. "We strut and fret our hour upon the stage, and then are heard no more." But wise institutions and free systems of government, painfully wrought, tried in the fires of sacrifice and suffering, should endure, for if they fall, they bring countless miseries in their ruin.

The real evil of all this sorry business lies in the creation of that distrust of our institutions to which the Senator from Texas referred. Yet the most serious quality of these attacks does not reside in those directed against the Senate. Every branch of the executive and legislative departments of the Government has been at one time or another in our history subjected to these indiscriminate assaults. No President was ever so maligned as Lincoln, and I have lived to see his fame rise up as world-wide as it is pure and unsullied, unharmed by the abuse of the forgotten creatures who thought to blacken his character and thwart his purposes. Within my own brief experience I have seen the House held up to public scorn and its Speaker denounced with unbridled ferocity on account of reforms which all men and all parties accept to-day, and which rescued that great body from a condition of inanition and contempt.

At this moment it is the turn of the Senate of the United States. The Senate has been assailed as virulently before when it has undertaken to perform the duties for which the Constitution designed it. Checks and balances in government are rarely popular, and the brake which is essential to preserve the train from accident or destruction not unfrequently jars some people's nerves when it is applied. But President and House and Senate all have one great security—they can ask the popular verdict, they can take the judgment of the people after the sober second thought, and they can plead their own cause before the great popular tribunal. Thus they have come through many trials, and they will have no difficulty in securing justice now as before.

But the case is widely different with the courts. They can

make no popular appeal; they can enter upon no defense; they can secure no verdict at the ballot box. They must do their duty in silence, and trust to the slow processes of time to vindicate them. For this reason it has been an unwritten law of our politics—a law rarely infringed—not to assail the courts. It is no debasing belief, no superstitious reverence, which has dictated this custom. No one thinks for a moment that the courts are infallible. There have been in our history some bad judges, happily very few, to our honor be it said; there have been, and there are, many of only moderate capacity; but the courts of the United States as a whole, and the Supreme Court above all, irreproachable in character and of high ability, have been one of the finest achievements and one of the great glories of our American system of government. No greater harm could be done, no more malignant evil could be wrought, than to breed popular distrust in the administration of justice.

I cut from a newspaper the other day an interview with Mr. Debs. It appears that there are some men in the far West suspected, apparently on good prima facie grounds of complicity in a brutal assassination. Mr. Debs objects to their being tried at all. His language is:

> We have no courts to appeal to; they belong to the plutocracy, and I am opposed to spending our means going up against a brace game judiciary.

His remedy is civil war. You may say that is the raving of a man of violence and of anarchy. Perhaps it is the last extreme; but is it wise for others to encourage that wholly false view of the courts and to teach the American people that the courts are not to be trusted?

I took from the Chicago Record-Herald of December 31, 1904, the following interview with Mr. Prouty, a distinguished, energetic, and able member of the Interstate Commerce Commission. He said:

> "If the Interstate Commerce Commission were worth buying, the railroads would try to buy it. They have bought pretty nearly everything in this country that is worth buying, and the only reason they have not tried to purchase the Commission is that this body is valueless in its ability to correct railroad abuses."
>
> This statement was made by Interstate Commerce Commissioner Charles A. Prouty yesterday in a discussion of legalized pooling. Asked, in view of this statement, whether it would be wise to give a commission control over rates, the Commissioner replied:
>
> "The public must trust some one, and that would be the best remedy it is possible to obtain under existing conditions. I am aware, however, that the great danger would lie in the possibility of the body to which should be intrusted the guardianship of the people's rights not performing its duty."
>
> Because of a possibility of purchase by the railroad interests, he was asked.
>
> "Yes; but not in the sense of an actual cash transaction. The railroads, it is well known, own many of our courts and other public bodies, but not because they have of necessity bought them by the expenditure of money. They have a different way of doing things. They see to it that the right men, the men of friendly inclinations, are elected. There would exist the danger of their doing this in the case of a 'strong' Commission, so that it might be composed of men who would sit idly by and do nothing of value."

Now, Mr. President, there is a man of high character, holding a high public position, deliberately stating to the people of this country that the courts and other public bodies are owned by the railroads. He says the railroads own them by electing them. United States judges are appointed. They are not elected. They are appointed by the President. The necessary implication is that if they are owned by the railroads the President has appointed men owned by the railroads.

If this were the utterance of some of our irresponsible magazine writers, whose only thought was to turn a penny by meeting what seemed a momentary demand for a sensational statement, it would be bad enough, but very far from fatal. Writers of that type come and go. They seize upon the excitement of the moment and presently rise like a flock of shore birds and whirl away to another spot where they think they can find a fresh feeding ground. These modern imitators of Titus Oates will pass away as he passed away. They will bring no innocent heads to the block as he did, although they may here and there cause distress. They will not end in the pillory as he did, because the pillory has been abolished, but they will go out of fashion just as he did into silence and contempt. It is when a man of ability and character holding high Government position like that of an Interstate Commerce Commissioner uses the language which I have quoted that the matter becomes deeply serious. It is when doubts and suspicions as to our courts are suggested by the words of men eminent in public office, as has been the case in the past months during the discussion of this question; it is when every effort is made to shut the courts out from all consideration of the momentous questions raised by this bill that the matter grows grave indeed, for it is in this way that the distrust is bred of which the Senator from Texas spoke and which every reflecting man must believe to be an inestimable if not an irreparable injury to the country. Congress should be the last place where any such attacks on the courts should be made—the last place where ideas of that sort could find a lodgment.

I have no superstitious reverence for the courts and no belief in their infallibility, but I look upon them not only as the bulwark of society and the guardians of liberty, but the symbols also of law and liberty. Where the decisions of the courts are obeyed, where justice is unimpeded, there are liberty and order, and there is no liberty without order. The oppression of the one tyrant is bad enough, but the oppression of a multitude of tyrants is infinitely worse. All Europe turned from the tyranny of the countless feudal lords and gave itself up to the tyranny of the one man who was made the king. It was far better than the tyranny of many. With disorder you may have license, you may have anarchy, but you will have no liberty. When you get to anarchy and disorder then you go over the dreary round, the old vicious circle, and land in the "reaction" and the "savior of society." We want neither socialism, which would reduce all things to a dead level and put all power into the hands of the Government, nor do we want anarchy, which represents chaos.

> We want men to be free,
> As much from mobs as kings; from you as me.

We want the sober freedom for which we have paid so great a price and which we have slowly and painfully built up and maintained. It is not that I apprehend these dangers from this specific bill, but I do apprehend grave dangers now lurking in the readiness to criticise the institutions of Government made by the hands of the people themselves and to slander the courts which administer our justice. Men are of slight importance. Let them say of us what they like and banish us forever if they choose—we men here—but it is the duty of every one of us to see to it that the great heritage of the past, which has given us freedom and everything we love and have fought for, is handed on untainted and unbroken to the generations which come after us. [Applause in the galleries.]

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 12707) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HAMILTON, Mr. BRICK, and Mr. MOON of Tennessee managers at the conference on the part of the House.

STATEHOOD BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 12707) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BEVERIDGE. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, and that the Chair appoint the conferees on the part of the Senate.

Mr. FORAKER. The proposition to which the House has disagreed is one which was not represented by the chairman of the Committee on Territories, who has just now addressed the Senate, and one with respect to which I fear he would not suggest conferees who would be agreeable to those of us who did represent that proposition. I rise, therefore, to object to the appointment of conferees in the usual way, and to ask that they may be selected by the Senate in such manner as may be proper for us to proceed in making the selection.

The VICE-PRESIDENT. The Chair will divide the motion, as, in his opinion, it is clearly divisible. The question is, Will the Senate insist upon its amendments and agree to the conference asked for by the House?

The motion was agreed to.

The VICE-PRESIDENT. The question is upon the appointment of the conferees.

Mr. FORAKER. I move——

Mr. BEVERIDGE. Mr. President——

Mr. FORAKER. I yield to the Senator from Indiana.

Mr. BEVERIDGE. The remaining portion of the motion is now the question.

The VICE-PRESIDENT. The Senator from Ohio is recognized.

Mr. FORAKER. I move as a substitute for that part of the Senator's motion that the conferees on the statehood bill on the part of the Senate be appointed by the Senate.

The VICE-PRESIDENT. The Senator from Ohio moves to amend the motion of the Senator from Indiana, so that the conferees shall be appointed by the Senate. The question is on the amendment.

Mr. BEVERIDGE. Mr. President——

Mr. FORAKER. I was about to suggest, if it met with the concurrence of the Senator from Indiana, that this matter go over until to-morrow morning, so as to give us an opportunity to confer with each other as to the conferees. It may be that we shall be able to agree upon the conferees. I do not know as to that. I have had no communication with the Senator from Indiana on the subject. But if he wants it disposed of now, I am willing that it shall be disposed of at this time.

Mr. BEVERIDGE. I am willing to take any course that may be agreeable, although if it involves anything but the usual procedure, I think, perhaps, it might as well be disposed of now——

Mr. PATTERSON. Mr. President, we on this side of the Chamber can not hear.

Mr. BEVERIDGE. Unless the Senator from Ohio is particularly insistent upon its going over.

Mr. FORAKER. I am not insistent upon its going over. I merely suggested that if it goes over until to-morrow, we will be able to take it up after consideration and after some conference.

Another reason for that is that if we go into this matter at this time, it is likely to create debate. I know there are some Senators who want to address the Senate on this subject. Other Senators have given notice that they desire to address the Senate at this time on other matters. The Senator from Wisconsin [Mr. SPOONER] has been waiting throughout the speech of the Senator from Massachusetts [Mr. LODGE] in order to secure an opportunity to address the Senate. I think, out of courtesy to him, it would be well enough to let the matter go over until to-morrow. Certainly no harm can arise from doing so.

Mr. BEVERIDGE. Very well, Mr. President. If the Senator from Wisconsin wishes to proceed now, and if this matter is likely to consume any time, I will let it go over until to-morrow morning.

In view, then, of that consideration and in view of the other suggestion of the Senator from Ohio, we will let it go over until to-morrow morning.

The VICE-PRESIDENT. Without objection, the motion and the amendment will lie over until to-morrow.

REGULATION OF RAILROAD RATES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. SPOONER obtained the floor.

Mr. TILLMAN. Will the Senator from Wisconsin yield to me for a moment?

Mr. SPOONER. Certainly.

Mr. TILLMAN. From the Committee on Interstate Commerce I wish to present as an appendix, which has just come to us from the experts, some figures and facts relating to the Prussian railways. I send it to the desk and ask that it be printed.

The VICE-PRESIDENT. The Senator from South Carolina asks that the papers sent to the desk by him be printed as a public document.

Mr. TILLMAN. The same number of copies as of the testimony.

Mr. KEAN. May I ask the Senator from South Carolina a question?

Mr. TILLMAN. Certainly.

Mr. KEAN. What is this?

Mr. TILLMAN. This is an appendix prepared by Messrs. Adams and Newcomb, under orders from the committee and under instruction from its chairman, sent to the committee and given to me by the chairman.

Mr. KEAN. And what both have agreed to?

Mr. TILLMAN. Both have agreed to.

The VICE-PRESIDENT. Is there objection to the request of the Senator from South Carolina? The Chair hears none, and it is so ordered.

Mr. SPOONER. Mr. President, it is embarrassing to ask the Senate to turn from the eloquent periods uttered by the Senator from Massachusetts [Mr. LODGE] to what I am conscious will at best be an unsatisfactory discussion of what is purely a question of constitutional law, for I do not rise to discuss anything contained in the "rate bill," so called, save as to a single phrase in it.

Some days since the distinguished Senator from Texas [Mr. BAILEY], whose absence to-day I lament, not only because I am compelled without his presence to discuss a portion of the amendment which he has submitted, and to reply somewhat to the speech which he made upon it, but also for the sorrowful event which compels his absence, expressed the opinion that Congress may constitutionally incorporate in this bill, in connection with a provision for judicial review of an order of the Interstate Commerce Commission fixing rates, a clause prohibiting the circuit courts of the United States in such cases to restrain by injunction the enforcement of the order before final decree. This raises, obviously, a question of very grave import.

I entertain the profoundest respect and admiration for the Senator from Texas, not only for his great ability and learning as a lawyer, but for his high character, independence, and patriotism in the discharge of public duty. When I find myself differing from him upon a constitutional question which has received his attention it is with a distrust of my own opinion which leads me to a careful reexamination of the subject.

The Senator from Maryland [Mr. RAYNER], in a very eloquent speech upon the pending measure, seemed to attach great significance to the words "or be suspended or set aside by a court of competent jurisdiction," in the clause relating to the time of taking effect of an order of the Commission fixing rates. To my mind these words are quite insignificant. They confer no jurisdiction upon any court of the United States not already possessed by it. They are mere recognition of existing jurisdiction, which can not constitutionally be withdrawn, and if they were stricken from the bill they would not in anywise affect the power of the circuit courts on a proper bill in equity to restrain by interlocutory or final decree the order affecting the rate or rates involved. To accomplish that object, if it be possible to accomplish it, it is necessary that there shall be a change in existing law governing jurisdiction of the circuit court in equity. The Senator from Texas fully realized this, and hence his proposition that the bill shall contain a prohibition against suspension of the order prior to final decree.

Mr. President, I am not able to agree with the Senator from Texas and others as to the power of Congress to so legislate. I have little doubt that if the bill when enacted shall contain such a prohibition it would be unconstitutional in that respect, and fear it will be regarded as so intertwined with the part of the bill authorizing the fixing of rates as to endanger it.

Many of us think the pending measure is in more than one respect of doubtful constitutionality, to say the least of it. I think I may justly say that many of us regard it as unconstitutional in one or two important particulars.

It is our duty, as it is justly to be expected of the Senate, that we shall give to the perfection of the measure, which is of the highest importance, the utmost of our ability, care, and industry. I should greatly dislike, Mr. President, not simply for myself, but for the body, of whose just fame I am as jealous and proud as any Senator can be, that this measure when it shall have passed the Senate, should fail in the courts for any want of constitutionality which we can remedy. It may contain some provisions as to the constitutionality of which many of us have doubt, but that danger should be limited to those provisions only which ought to be incorporated in it if they can constitutionally be incorporated in it, and in order that their constitutionality may be presented to the highest tribunal for determination.

The time has certainly come when the scope of the commerce clause of the Constitution in respect of interstate transportation should be determined by the Supreme Court. This can only be done by the enactment of a statute raising the question.

The weakness, if there be one, in the proposition and in the argument made in support of it—that this proposed provision may constitutionally be enacted—seems to rest in a failure to distinguish between jurisdiction and judicial power. The Constitution, Article III, section 1, says:

> The judicial power of the United States *shall be vested* in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. * * *
>
> SEC. 2. The judicial power *shall extend* to *all* cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.
>
> In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

I concede, under the decisions, of course, that the circuit and district courts of the United States are statutory courts; that

they do not derive their jurisdiction immediately from the Constitution. They are created by the Congress. Their jurisdiction is to be found in the legislation of Congress. For many years Congress withheld from their jurisdiction a large number of cases or controversies enumerated in the Constitution. That Congress could lawfully do this I do not question.

Mr. President, the framers of the Constitution manifestly did not intend to create a judicial department that was to be dependent in the exercise of *judicial power* upon the will of Congress. They had painful memories of the history of jurisprudence in England. They knew that the bar of England and the fearless judges of England had done more for personal liberty than all the other forces of England could do. They knew, too, that judges of England, holding office by favor simply of the King, and therefore dependent upon his will, had perpetrated wrongs and tyrannies indescribable; for there is no tyranny any worse than the tyranny of a lawless judge. They knew, too, that out of the confusion of legislative and judicial functions in the English system had arisen intolerable abuses. They intended by the Constitution to create, and did create, three coordinate and independent branches of the Government, to each of which was assigned its proper function, clothed with the power essential to their proper discharge. They intended that each should be in its sphere absolutely free from invasion by the others. They created the legislative department to enact rules of action, the executive department to administer the laws, the judicial department (the weakest of all in a way) to hold each of the others, the legislative and the executive, strictly to the limitations of the Constitution. Each was to be permanent as the Government itself until changed by the people.

They clearly contemplated a Federal judicial system. They secured the independence of the judges by making their tenure of office dependent only on good behavior and by preventing the legislative department from starving them into weakness by diminution of their compensation.

It was not intended to create a judicial department that should be defenseless against the passion or unwisdom of the legislative department. They vested, by the same language with which they clothed the other two departments with their functions of government, the judicial power of the United States in one Supreme Court *and* in such inferior courts as the Congress may from time to time ordain and establish. The Supreme Court, of course, could not have existed without legislation by Congress. The constitutional provision was not self-executing, but it laid a mandate upon Congress to organize the Supreme Court and inferior courts. For Congress to have omitted the organization of the Supreme Court would have been revolutionary. For Congress to have omitted the organization and establishment of inferior courts would have been equally revolutionary. The result would have been that the Government as it was made would have failed of organization, for where the Constitution provided for three departments there would have been but two, in fact.

Congress, in obedience to the constitutional mandate, organized the Supreme Court, and the Constitution placed it beyond reach of any subsequent Congress, save to increase or possibly to reduce its numbers. Its jurisdiction is original in but two cases; in all others it is appellate.

My proposition is: That when the Congress confers *jurisdiction* upon the inferior courts of the United States over any one of the cases or controversies enumerated by the Constitution the judicial power, *ex necessitate rei*, goes with it, including the instrumentalities which inhere in the jurisdicton and are necessary to its efficient exercise.

It never could have been in the minds of the framers that there could come a time when there would be life judges of the inferior courts without inferior courts.

It is insisted by some that Congress may destroy these inferior courts, and as the greater includes the lesser, it may limit as it sees fit the exercise of judicial power where jurisdiction exists. I do not know what may be the opinion of the Senator from Texas as to the power of Congress to destroy the inferior courts without substituting other inferior courts in their places, but justice to him in his absence requires it to be said in this connection that he did not base his argument for the power of Congress to limit the issue of injunctions as proposed upon any such ground.

I find support, Mr. President, for the proposition for which I am contending in an illuminating opinion upon the judicial clauses of the Constitution, delivered by Mr. Justice Story, of the Supreme Court, in the case of Martin *v.* Hunter's Lessee (1 Wheaton, 304). His reasoning is worth rereading many times. It was dissented from only by one justice, and not by any as to the portion of it which declares specifically the law to be as I am contending for it. It is so important and complete that I beg leave to read it. Speaking for the court, he says, after quoting the third article:

Let this article be carefully weighed and considered. The language of the article throughout is manifestly designed to be mandatory upon the legislature. Its obligatory force is so imperative, that Congress could not, without a violation of its duty, have refused to carry it into operation. "The judicial power of the United States shall be vested [not may be vested] in one Supreme Court, and in such inferior courts as Congress may, from time to time, ordain and establish." Could Congress have lawfully refused to create a Supreme Court, or to vest in it the constitutional jurisdiction? "The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive, for their services, a compensation which shall not be diminished during their continuance in office." Could Congress create or limit any other tenure of the judicial office? Could they refuse to pay, at stated times, the stipulated salary, or diminish it during their continuance in office? *But one answer can be given to these questions; it must be in the negative. The object of the Constitution was to establish three great departments of government; the legislative, the executive, and the judicial departments. The first was to pass laws, the second to approve and execute them, and the third to expound and enforce them. Without the latter, it would be impossible to carry into effect some of the express provisions of the Constitution. How, otherwise, could crimes against the United States be tried and punished? How could causes between two States be heard and determined? The judicial power must, therefore, be vested in some court, by Congress; and to suppose that it was not an obligation binding on them, but might, at their pleasure, be omitted or declined, is to suppose that, under the sanction of the Constitution, they might defeat the Constitution itself. A construction which would lead to such a result can not be sound.*

The same expression, "shall be vested," occurs in other parts of the Constitution in defining the powers of the other coordinate branches of the Government. The first article declares that "all legislative powers herein granted shall be vested in a Congress of the United States." Will it be contended that the legislative power is not absolutely vested? That the words merely refer to some future act and mean only that the legislative power may hereafter be vested? The second article declares that "the executive power shall be vested in a President of the United States of America." Could Congress vest it in any other person; or is it to await their good pleasure whether it is to vest at all? It is apparent that such a construction in either case would be utterly inadmissible. Why, then, is it entitled to a better support in reference to the judicial department?

If, then, it is the duty of Congress to vest the judicial power of the United States, it is a duty to vest the whole judicial power. The language, if imperative as to one part, is imperative as to all. If it were otherwise, this anomaly would exist, that Congress might successively refuse to vest the jurisdiction in any one class of cases enumerated in the Constitution, and thereby defeat the jurisdiction as to all, for the Constitution has not singled out any class on which Congress are bound to act in preference to others.

The next consideration is as to the courts in which the judicial power shall be vested. *It is manifest that a Supreme Court must be established; but whether it be equally obligatory to establish inferior courts is a question of some difficulty. If Congress may lawfully omit to establish inferior courts, it might follow that in some of the enumerated cases the judicial power could nowhere exist. The Supreme Court can have original jurisdiction in two classes of cases only, namely, in cases affecting ambassadors, other public ministers, and consuls, and in cases in which a State is a party. Congress can not vest any portion of the judicial power of the United States, except in courts ordained and established by itself; and if in any of the cases enumerated in the Constitution the State courts did not then possess jurisdiction, the appellate jurisdiction of the Supreme Court (admitting that it could act on State courts) could not reach those cases and, consequently, the injunction of the Constitution, that the judicial power "shall be vested," would be disobeyed. It would seem, therefore, to follow that Congress are bound to create some inferior courts in which to vest all that jurisdiction which, under the Constitution, is exclusively vested in the United States, and of which the Supreme Court can not take original cognizance. They might establish one or more inferior courts; they might parcel out the jurisdiction among such courts from time to time at their own pleasure. But the whole judicial power of the United States should be at all times vested either in an original or appellate form in some courts created under its authority.*

* * * * * * *

It being then established that the language of this clause is imperative, the next question is as to the cases to which it shall apply. The answer is found in the Constitution itself. The judicial power shall extend to all the cases enumerated in the Constitution. As the mode is not limited, it may extend to all such cases, in any form, in which judicial power may be exercised. It may, therefore, extend to them in the shape of original or appellate jurisdiction, or both; for there is nothing in the nature of the cases which binds to the exercise of the one in preference to the other.

* * * * * * *

BUT EVEN ADMITTING THAT THE LANGUAGE OF THE CONSTITUTION IS NOT MANDATORY AND THAT CONGRESS MAY CONSTITUTIONALLY OMIT TO VEST THE JUDICIAL POWER IN COURTS OF THE UNITED STATES, IT CAN NOT BE DENIED THAT WHEN IT IS VESTED, IT MAY BE EXERCISED TO THE UTMOST CONSTITUTIONAL EXTENT.

The judicial power of the Constitution extends to all cases *in law and equity* arising under the Constitution, etc. The words "law and equity," as used in the Constitution, were not used without definite meaning. As to equity, they referred to a system of jurisprudence which had long been established in England and was administered in this country prior to the adoption of the Constitution.

In Pennsylvania *v.* Wheeling Bridge Company (13 How., 562) the court says:

In exercising this jurisdiction the courts of the Union are not limited by the chancery system adopted by any State, and they exercise their functions in a State where no court of chancery has been established. The usages of the high court of chancery in England, wherever the jurisdiction is exercised, govern the proceedings. This

may be said to be the common law of chancery, and since the organization of the Government it has been observed.

* * * * * * *

Under this system, where relief can be given by the English chancery similar relief may be given by the courts of the United States.

The word "law" was used in contradistinction to equity and admiralty and maritime jurisprudence. They referred not simply to the suits which the common law recognized among its old and settled proceedings, but suits in which *legal* rights were to be ascertained and determined in contradistinction to those where equitable rights alone were recognized and equitable remedies were administered.

Upon the demand of the States, after the adoption of the Constitution, an amendment was adopted declaring that in suits at common law where the value in controversy shall exceed $20 the right of trial by jury shall be preserved, etc., and this meant the jury of the common law.

It is quite plain that the distinction between law and equity expressly recognized in the Constitution can not be abolished. (Parsons *v.* Bedford, 3 Peters, 443. See also Fenn *v.* Holme, 21 Howard, 481.)

In equity an issue may be sent to the jury, but the verdict is only advisory. The function of the common-law jury and the effect of its verdict is different.

The preventive relief afforded by equity through injunctions is an essential part of the equity jurisprudence. That jurisprudence came into being only because of the inability of the common law to furnish more than redress for wrongs. It could award damages, but there were an infinite number of cases which its rules and processes did not embrace. The main necessity which called it into existence was the power to afford preventive relief. A bill for permanent injunction was one of the main elements of the system. To strike out of the jurisprudence the bill for injunction would be to destroy the harmony and utility of the jurisdiction. If the power to grant a preliminary injunction, where the efficient exercise of the judicial power in equity demands it, were taken away, the system would be unrecognizable.

In a vast number of cases, Mr. President, the permanent injunction would be fruitless but for the preliminary injunction. It would be an idle thing to decree a permanent injunction to prevent some irremediable wrong if the court did not possess the power in proper cases to prevent the doing of that wrong pendente lite. The first bill in equity I ever drew was for injunction to restrain the negotiation of promissory notes obtained by gross fraud from a farmer and secured by a mortgage on his farm. What relief would equity afford in such case without the preliminary writ, and that, too, without notice? Innumerable cases occur to any lawyer of experience, and are noted in the books, and it has been so from the beginning, in which without preliminary injunction the judicial power of equity to permanently enjoin would be as idle as the wind that blows.

I have not seen a criticism of the reasoning and conclusion of Mr. Justice Story which I have read. Mr. Justice Field, in the case of Taylor *v.* Hammond (4 Wallace, 411), thus refers to it:

How far this judicial power is exclusive, or may, by the legislation of Congress, be made exclusive, in the courts of the United States has been much discussed, though there has been no direct adjudication upon the point. In the opinion delivered in the case of Martin *v.* Hunter's Lessee (1 Wheat., 334) Mr. Justice Story comments upon the fact that there are two classes of cases enumerated in the clause cited between which a distinction is drawn; that the first class includes cases arising under the Constitution, laws, and treaties of the United States, cases affecting ambassadors, other public ministers, and consuls, and cases of admiralty and maritime jurisdiction; and that, with reference to this class, the expression is that the judicial power shall extend to all cases; but that in the subsequent part of the clause, which embraces all the other cases of national cognizance and forms the second class, the word "all" is dropped. And the learned justice appears to have thought the variation in the language the result of some determinate reason, and suggests that, with respect to the first class, it may have been the intention of the framers of the Constitution imperatively to extend the judicial power either in an original or appellate form to all cases, and, with respect to the latter class, to leave it to Congress to qualify the jurisdiction in such manner as public policy might dictate.

Mr. Justice Field further says:

Many cogent reasons and various considerations of public policy are stated in support of this suggestion. The vital importance of all the cases enumerated in the first class to the national sovereignty is mentioned as a reason which may have warranted the distinction and which would seem to require that they should be vested exclusively in the national courts—a consideration which does not apply, at least with equal force, to cases of the second class.

Mr. Justice Miller seems to take much the same view. (Miller on the Constitution, p. 312 et seq.)

Now, Mr. President, let me repeat, although I have repeated much, how is it possible that the Congress, having conferred jurisdiction in equity upon an inferior court over one of the cases or controversies named in the Constitution, can withhold in that case the judicial power of the Constitution? If it may do so in part, it may do so altogether. If it may prohibit, although necessary to the exercise of the judicial power, the right to issue in a proper case a preliminary injunction, why may it not withhold the power to decree a permanent injunction? Whether when the jurisdiction exists the efficient exercise of the judicial power requires the issue of a preliminary injunction would seem to be a question for the judge—a judicial and not a political question—and if Congress may say that, whatever the showing may be, the court having jurisdiction of the suit shall not, although it be, in the opinion of the court, demanded, issue a preliminary injunction, does not the Congress rather than the court really exercise the judicial power? Is it not a commingling of the legislative with the judicial functions? Is it not an emasculation of the judicial power, and an invasion by one department of the Government of the power of another? If the distinction between the jurisdiction which the Congress may withhold and the exercise of the judicial power where jurisdiction exists is destroyed, and the Congress may regulate by act the exercise of the judicial power itself, is this the Government which the framers of the Constitution intended to create?

Is the judiciary an independent department of the Government, which the Constitution intended it to be? If the power exists in any degree to interfere with the exercise of judicial power, except by regulating procedure and practice, it is for Congress alone to say how far that power shall be exercised. It is inconceivable that the judiciary, whose function under the Constitution it is to see to it, among other things, that the executive department and the legislative department keep within the limitations of the Constitution, overturn acts when, in their judgment, they are violative of the fundamental charter, can be, to the extent involved in the amendment here, subject to Congressional control.

It is the function of the Supreme Court and the inferior courts to secure to the citizens the guaranties of the Constitution of life, liberty, and property. It certainly could not have been in the contemplation of the framers that their power to discharge this function should be exercised in given cases not according to the judgment of the court, but according to the legislative will.

It is said by Mr. Justice Baldwin in ex parte Crane (5 Peters, 190–202):

Though the courts of the United States are capable of exercising the whole judicial power as conferred by the Constitution, and though Congress *are bound to provide by law for its exercise in all cases to which that judicial power extends*, yet it has not been done, and much of it remains dormant for the want of legislation to enable the courts to exercise it, it having been repeatedly and uniformly decided by this court that legislative provisions are indispensable to give effect to a power to bring into action the constitutional jurisdiction of the supreme and inferior courts.

There is no question about that.

It is said that in the judiciary act there are prohibitions upon the power of the circuit courts of the United States in equity. That is true. There is a prohibition in the judiciary act that the court shall not have jurisdiction where there is a plain and adequate remedy at law. That is declaratory of the law as it was before the adoption of the Constitution. That is one of the fundamental principles of jurisdiction in equity.

Mr. MORGAN. That is the law now, is it not?

Mr. SPOONER. That is the law now.

Mr. MORGAN. Under the Constitution?

Mr. SPOONER. Under the Constitution, and it was the law of the English chancery before the Constitution. Wherever redress could be afforded at the common law those who were wronged were remitted to the common law; wherever the common law would not and could not afford relief, recourse was had to the courts of chancery if the case were such as to render it possible—a splendid system of jurisprudence, Mr. President. If one will read the maxims of equity, he will find that they are golden lines. There will never come a civilization which they will not fit; they seem almost the "perfection of human wisdom," and how splendidly, all in all, they have been administered by the courts of the United States.

The Supreme Court, sitting here at the capital, removed from the passions of the multitude, far above the prejudices excited among the people, however strong the clamor, however unpopular the litigant, however they may be threatened from without, has gone on in that calm, quiet way which the Constitution contemplated in the discharge of judicial duty. It has done more to assert the vital principles of the Constitution and to protect the people of the United States against wrongs existing and wrongs threatened in a large way than all the Congresses that have convened.

Mr. RAYNER. Will the Senator submit to an interruption?

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Maryland?

Mr. SPOONER. Certainly; although I know I am making a very disjointed argument.

Mr. RAYNER. It is a highly instructive one to me, but I understand the proposition is that under the Constitution Congress has the right to ordain and establish inferior courts.

Mr. SPOONER. Yes.

Mr. RAYNER. Suppose Congress had never ordained or established any inferior courts?

Mr. SPOONER. Suppose Congress had never established the Supreme Court of the United States.

Mr. RAYNER. No; inferior courts; the Constitution provides for the organization of the Supreme Court. Suppose that Congress—because this is right at the threshold of this inquiry—had never established or ordained an inferior court of the United States, is there any way on earth by which Congress could have been compelled to ordain or establish inferior courts?

Mr. SPOONER. Certainly not.

Mr. RAYNER. Well, now, one moment. There is no power by which you could have compelled Congress to ordain and establish an inferior court?

Mr. SPOONER. No.

Mr. RAYNER. It did establish and ordain inferior courts?

Mr. SPOONER. Yes.

Mr. RAYNER. If there is no way to compel it to establish or ordain an inferior court, why can not Congress destroy an inferior court—abolish an inferior court?

Mr. SPOONER. There are two or three answers to the Senator. There was no way to compel Congress to organize the Supreme Court of the United States. No bill for specific performance would anywhere lie. There was only one power under the bending sky by which that mandatory duty could have been enforced and that is the power in whose interest we are all working here if we are faithful; that is the power of public opinion; that is the power of the people. To have failed to organize it would have been a monumental piece of treason to the Constitution; and it is not to be supposed or imputed to Congress, as the predicate, I beg to say to my friend, of any argument on that subject, it seems to me.

Mr. RAYNER. I am not now speaking of treason or anarchy. I am speaking of constitutional power. I am aware of the fact that if Congress destroyed the courts we would have a condition of anarchy.

Mr. SPOONER. Yes.

Mr. RAYNER. The organization of the Supreme Court is provided for by the Constitution.

Mr. SPOONER. But it required legislation, did it not?

Mr. RAYNER. It required legislation.

Mr. SPOONER. Suppose Congress had not legislated?

Mr. RAYNER (reading)—

The judicial power of the United States shall be vested in one Supreme Court——

Mr. SPOONER. "And"——

Mr. RAYNER. One moment—

and in such inferior courts as the Congress may from time to time ordain and establish.

After vesting the power, the next article provides that—

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction.

Here is the Constitution vesting in the Supreme Court original jurisdiction, and it is giving Congress the right to establish and ordain inferior courts. What do you do with the decision which I referred to before here, in which a unanimous court, in construing that provision, says:

It must be admitted that if the Constitution had ordained and established the inferior courts and distributed to them their respective powers, they could not be restricted or divested by Congress. But as it has made no such distribution one of two consequences must result—either that each inferior court created by Congress must exercise all the judicial powers not given to the Supreme Court or that Congress, having the power to establish the courts, must define their respective jurisdictions.

You do not object to my interrupting you?

Mr. SPOONER. No; if it is not too long.

Mr. RAYNER. There are only three or four lines more.

Mr. SPOONER. Go ahead.

Mr. RAYNER. Very well.

The first of these inferences has never been asserted, and could not be defended with any show of reason, and if not, the latter would seem to follow as a necessary consequence. And it would seem to follow also that, having a right to prescribe, Congress may withhold from any court of its creation jurisdiction of any of the enumerated controversies. Courts created by statute can have no jurisdiction but such as the statute confers. No one of them can assert a just claim to jurisdiction exclusively conferred on another or withheld from all.

Mr. SPOONER. I admitted that within fifteen minutes after I began this wearisome address.

Mr. RAYNER. You admitted it?

Mr. SPOONER. I admit it now.

Mr. RAYNER. But your argument is dead against the case.

Mr. SPOONER. That begs the question. My argument is not in the slightest degree, with due deference to my friend from Maryland——

Mr. RAYNER. I beg your pardon.

Mr. SPOONER. Contrary to the decision or its reasoning.

Mr. RAYNER. Now, before the Senator goes to that, let me ask just one question, because it seems to me that the lines of opposition are converging and we want to get to some practical understanding if we can.

I understood you to say, in the course of your argument, that you did not object to a provision in this bill that before the suspending orders are issued, either the Interstate Commerce Commission or the shipper should have some notice of the issuance of the orders. Did I understand you to say that you did not object to that?

Mr. SPOONER. Whether I said it or not, I say it now.

Mr. RAYNER. Then let me say——

Mr. SPOONER. That simply regulates the practice.

Mr. RAYNER. It is a matter which goes right to the heart of the bill.

Mr. SPOONER. Let me answer the Senator's question.

Mr. RAYNER. It is a matter which goes to the heart of the controversy.

Mr. SPOONER. That is an afterthought. The argument that has been made here and splendidly made, which I am attempting to controvert, was not upon the question whether Congress can regulate the practice of issuing injunctions so as to require notice; not at all. The judiciary act did that. It was provided in the judiciary act that no injunction should be issued by a Federal court without reasonable notice. It was provided in 1872 that no injunction should be issued by a Federal judge without notice. But the Federal judge was authorized, where, in his judgment, it was necessary to do justice, at the time of issuing the order to show cause, to grant a restraining order. Nobody disputes that. But it is a far, far cry from that to the proposition that the Congress can prohibit a court of equity, clothed by its legislation with jurisdiction and with the judicial power of the Constitution in equity, from granting a preliminary injunction even with notice. Now, to come back——

Mr. RAYNER. I never made any such argument as that.

Mr. SPOONER. I am not arguing this bill. I am discussing this question. I may be wrong about it. This is what troubles me, however: Does the power exist in Congress to confer jurisdiction upon a court to exercise the judicial power of the Constitution in equity, and at the same time has it the power to chip off the judicial power as it chooses, to give power to a court of equity to entertain a bill for specific performance, and yet deny the court the power to issue the writs essential to carry that jurisdiction into effect?

If the broad claim rather argued by the Senator just now, far beyond this matter of notice, is the law in this country, the people of the United States may well beware, because in the last analysis the protection of the people of the United States in the enjoyment of all the personal guaranties of the Constitution is to be found in the courts of the United States. It is not to be found in the Congress. It is not to be found in the White House. It is to be found in the courts.

The preservation of the Constitution itself is to be found in the courts. The last refuge of liberty, of property rights, large and small is in the judiciary of the United States. If you will draw the distinction between jurisdiction and judicial power, I am content. What does the Senator say about that?

Mr. RAYNER. I say, if the Senator will allow me, that this goes back to the proposition upon which I respectfully agree with the Senator from Wisconsin. If you were to take the words "or be suspended" out of this bill, a court of equity would still have the power to issue a preliminary injunction. That is the statement of the Senator—if those words were out of the bill?

Mr. SPOONER. Yes.

Mr. RAYNER. I think most of us agree with the Senator.

Mr. SPOONER. The courts could do so with them in the bill or out of the bill.

Mr. RAYNER. Why, then, do you put them in the bill?

Mr. SPOONER. I did not put them in the bill.

Mr. RAYNER. Why do you object to taking them out of the bill?

Mr. SPOONER. I do not object.

Mr. RAYNER. Then we are getting very close together.

Let me ask the Senator this: If the words "or be suspended" were taken out of this bill—this is a practical proposition——

Mr. SPOONER. Let us have the question.

Mr. RAYNER. I will get to the question as quickly as I can. The bill reads:

Unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction.

If the words "or be suspended" were eliminated from the bill, courts of equity would still have a right to issue preliminary injunctions?

Mr. SPOONER. Yes.

Mr. RAYNER. Why did you put them in the bill? That is the question.

Mr. SPOONER. I do not object to striking them out.

Mr. RAYNER. If the Senator does not object to their being stricken out, does the Senator object to adding:

The courts shall not issue preliminary or temporary injunctions without notice to the Interstate Commerce Commission.

Mr. SPOONER. Oh, Mr. President——

Mr. RAYNER. That is the point in controversy. You may call it practice or not; that is, that the inferior courts of the United States shall not issue injunctions against a decision by the Interstate Commerce Commission without giving the Interstate Commerce Commission the right to be heard in answer to the bill for an injunction. You may call it practice or not.

Mr. SPOONER. The Senator can not make any issue with me on that; not at all. His argument the other day, which was quite elaborately based on the words which he recites, was based on nothing if he thinks to-day those words mean nothing whether they are in or taken out. I think they mean nothing in the bill. If they are not in the bill the court would have the power to grant preliminary injunctions. If they are left in the bill, with some other language there, perhaps the court in almost every instance would be obliged to grant a preliminary injunction. I have been in favor of taking them out of the bill. They serve no useful purpose there, it seems to me.

Mr. RAYNER. I agree with you.

Mr. SPOONER. But I have understood Senators on the other side, at any rate the Senator from Texas and some others, not to be content with taking those words out of the bill, but to insist that there shall be put in the bill a provision preventing the granting by interlocutory order of any injunction.

Mr. RAYNER. I understood that fully.

Mr. SPOONER. What is the Senator's opinion about that?

Mr. RAYNER. The Senator's opinion is that you are delivering a very instructive argument upon that proposition, and that there may possibly be some question about it. My argument the other day was based upon the proposition that a suspending order without notice was not a constitutional incident; that to give the court the right to issue a suspending order without notice to the Interstate Commerce Commission was not a constitutional incident under the fifth amendment. I think the lines of opposition are gradually converging on this matter. Would the Senator agree to an amendment here saying that the courts shall issue no suspending order without notice to the Interstate Commerce Commission? That is the point.

Mr. SPOONER. I am not in charge of this bill.

Mr. RAYNER. Would you agree to that?

Mr. SPOONER. I have said that twice. I speak only for myself.

Mr. RAYNER. Then we are getting pretty close together.

Mr. SPOONER. It seems, from the Senator's present statement, that I have been rather close to him all the time. I did not know it.

Mr. RAYNER. I am very glad to have you. You are a very good man to be close to.

Mr. SPOONER. I am obliged to the Senator. But the proposition he is making——

Mr. BACON. Will the Senator from Wisconsin let me ask him a little side question, as it were?

Mr. SPOONER. Certainly.

Mr. BACON. What does the Senator mean—he has repeated it several times and that is the reason why I make the inquiry—when he says Senators "on the other side," referring to this side?

Mr. SPOONER. I understood the Senator from Maryland the other day to speak for Senators on the other side.

Mr. RAYNER. I especially refrained from doing that. I said three times, and if the Senator will be kind enough to read what I said he will find it, that I spoke for no one except myself, and the Senator from Texas also said he spoke for no one but himself. I am in favor of the amendment of the Senator from Texas, and I intend to vote for it if it has no other vote in the Senate. I think there may possibly be some question about the proposition, but I never have thought for a moment that there was any doubt about the proposition that when a rate is fixed by the Interstate Commerce Commission no carrier should have the right to go into court and obtain an order suspending that rate without giving the Interstate Commission notice of its application to the court.

Mr. SPOONER. Mr. President——

Mr. RAYNER. One moment. Speaking now for myself——

The VICE-PRESIDENT. The Chair understood the Senator from Wisconsin to yield to the Senator from Georgia. The Chair recognizes the Senator from Georgia.

Mr. BACON. I wish to apologize to the Senator from Wisconsin for somewhat diverting his attention from the line of his argument. But this is a question upon which, so far as I know, there is not a division on party lines.

Mr. SPOONER. That is true.

Mr. BACON. Therefore I think it is rather inappropriate for the Senator, as he has done several times in his argument, to refer to the position of Senators "on the other side." Some of us have not yet exactly indicated what our position may be on some of these law points, although we heartily favor the bill in its substance.

Mr. SPOONER. I thank the Senator. It is always a great pleasure to me to be able to agree with him, and I do agree with him that it was an inappropriate thing for me to say.

Mr. RAYNER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Maryland?

Mr. SPOONER. Certainly.

Mr. RAYNER. The point is that I think we are closing up a part of the controversy.

Mr. SPOONER. No.

Mr. RAYNER. We are getting pretty close to it on suspending orders.

Mr. SPOONER. No; we are not.

Mr. RAYNER. You and I are.

Mr. SPOONER. No; you and I are not.

Mr. RAYNER. Why not?

Mr. SPOONER. Because you will vote for a proposition prohibiting the court from granting an interlocutory injunction.

Mr. RAYNER. I will.

Mr. SPOONER. I will not.

Mr. RAYNER. If that is defeated, and if the Senator will offer an amendment that the Commission shall have notice before the granting of an interlocutory injunction, I will vote for the amendment. I will vote for the amendment if you will give the Commission a right to be heard and not go with your orders before a Federal judge and have the rate enjoined without notice.

Mr. SPOONER. It would be as much the Senator's rate as mine.

Mr. RAYNER. How?

Mr. SPOONER. You said "your orders."

Mr. RAYNER. I am talking about the orders of the Commission.

Mr. SPOONER. I understand the position of the Senator from Maryland, and in order that there may be no mistake about it I will restate it. He is in favor of an amendment prohibiting, no matter what the bill may show, no matter what the exhibit may show, the granting of an interlocutory injunction by the circuit courts of the United States to suspend, pending hearing of all parties, the order. I am not, for I believe it would make the bill unconstitutional.

The Senator, secondly, is in favor, if he can not get that, of prohibiting the issue of an injunction without notice to the Interstate Commerce Commission. I am not in the slightest opposed to that. So that so far as the Senator and I are concerned we understand each other at last. The amendment, or the only part which I am discussing, is this:

Provided, That no rate or charge, regulation or practice prescribed by the Commission shall be set aside or suspended by any preliminary or interlocutory decree or order of the court.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. SPOONER. Certainly.

Mr. TILLMAN. As I said the other day in making a report on this bill, I spoke for no one but myself. Unfortunately, I am not in a position to confer with the majority of the Committee on Interstate Commerce and get a united opinion of such majority to represent that committee in indicating what its wishes are. Therefore, I again speak only for myself when I say, without any pretense of knowing anything about the law or these constitutional refinements, that if the Supreme Court shall hold that Congress has no power to control these courts which it has created, in an attempt to give the people the relief which is sought in regard to railroad rates and other regulations of railroads, I believe the people will send to Congress men who

will give them relief, if they have to do it in the way that Congress once before notified the court, by reason of public opinion, that the legal-tender acts, which had been declared unconstitutional, had to be declared constitutional, and the court was reformed in some way so that it discovered that they were constitutional.

I predict that sooner or later these refinements will all be brushed aside by a Congress which will enact a law prohibiting any inferior judge from suspending the order of the Commission which has given the people relief.

Mr. SPOONER. I never derive very much information or benefit from the advice of a man who prefaces his remarks by saying that he does not know anything about the subject.

The Senator from South Carolina is an honest man. He wants the right thing done about this bill. He wants it, when it passes the Senate, to be a constitutional bill. He does not want it emasculated. Neither do I. He does not want it to contain a taint which would make it a failure after it is enacted. But the Senator must not assume that he is more patriotic than the rest of us. He must not assume that those of us who have spent our lives in the study of the law are not better advised than those who have not as to what is safely and what is not safely within the Constitution. The Senator said the other day that he is a "cornfield" lawyer.

Mr. TILLMAN. I repeat it.

Mr. SPOONER. I have had many "cornfield" lawyers come to me and pay me, to get the opinion and advice of a lawyer who had studied and practiced the law.

Mr. TILLMAN. Nevertheless the Senator can not refine away this cornfield common sense, that whatever you can create you can control.

Mr. SPOONER. There it is—"cornfield common sense." If the Supreme Court of the United States does not square its decisions with the cornfield common sense of the Senator from South Carolina, he would reform the Supreme Court of the United States; and if the Supreme Court of the United States did square its decisions with some of the cornfield common sense of the Senator from South Carolina, the people of the United States would need to reform the court.

Now, what does the Senator mean? We want the same thing that the Senator wants. Does not the Senator believe—perhaps he would call that a refinement—that the dropping out of the present law of the jury trial provided for by the Constitution, helps this bill any?

Mr. TILLMAN. No; I want it put back.

Mr. SPOONER. Did you learn that in the cornfield——

Mr. TILLMAN. Yes.

Mr. SPOONER. Or from lawyers?

Mr. TILLMAN. I got it from my little knowledge of English jurisprudence and American liberty which I inherited with my mother's milk.

Mr. SPOONER. All right.

Mr. TELLER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Colorado?

Mr. SPOONER. Certainly.

Mr. TELLER. The Senator from Wisconsin can not conclude to-night.

Mr. SPOONER. I only want to say this——

Mr. TELLER. I thought perhaps he would like to quit now and resume in the morning. We want him to go on and finish his speech—everybody does—and I know there are several points on which he can not touch to-night, and I think he intends to touch upon them. Otherwise he would not do justice to the case.

Mr. SPOONER. I have not done justice to the case.

Mr. TELLER. So far as you have gone we do not find any fault. I should like to give the Senator an opportunity to postpone his remarks until to-morrow, if he wants it.

Mr. SPOONER. I hope the Senator from South Carolina will acquit me of any purpose to offend him.

Mr. TILLMAN. I have never found the Senator to be malicious.

Mr. SPOONER. The Senator will permit me. I appreciate his ability and aptitude for the discharge of public duty here, his patriotism, his industry. I appreciate his friendship. I would not want it if I did not appreciate him as an honest man. But the Senator from South Carolina is a little apt, without knowing it, by innuendo to impugn the good faith of men who believe in him and who are as faithful to the public service as he can be. The Senator ought not, because I am dealing with a question of great importance and dealing with a question of constitutional law, to assume, as he seems to do, that this is simply the legal refinement of the lawyer. Does the Senator think for one moment that we are not trying here to make a good bill of this?

Mr. TILLMAN. I have not said so.

Mr. SPOONER. Does the Senator think that those of us who as lawyers have studied this bill are not doing it as a matter of public duty to help the people in this legislation?

Mr. TILLMAN. I have not said so.

Mr. SPOONER. The Senator from South Carolina would not, if it were left to him, want to have the responsibility of this bill as it came from the House?

Mr. TILLMAN. No; I never would have put in it a third that there is in it.

Mr. SPOONER. The Senator would have left some things out of it that ought to be in it, as the House left some things out of it that ought to be in it; and the Senator may very well be glad, on this complicated and intricate subject, to have the advice and assistance of the lawyers of this body, a class of men a part of whose habit of life it is to be loyal in the discharge of duty to a client, if it be a client; to the people, if they are in the public service.

Mr. TILLMAN. The Senator from Wisconsin does me wrong when he imagines for a moment that I assume that I am any better than any other Senator here in my devotion to the people. I do not claim that. I do not pretend any such thing.

Mr. SPOONER. I know in your sober moments you do not.

Mr. TILLMAN. I am as sober now as I ever was in my life. The Senator has not made me as drunk to-day as he usually does.

Mr. SPOONER. The other day the Senator from South Carolina challenged the Senator from Pennsylvania.

Mr. TILLMAN. On what point?

Mr. SPOONER. As being an attorney for the Pennsylvania Railroad——

Mr. TILLMAN. I had every reason to believe it, because it had been sent broadcast by the Associated Press and all the newspapers.

Mr. SPOONER. As being a man with whom the President could not safely advise on matters of this kind.

Mr. TILLMAN. I say I had seen it. I do not want to have anything to say in regard to the Senator from Pennsylvania, but if the Senator from Wisconsin wants to challenge me——

Mr. SPOONER. No.

Mr. TILLMAN. I will bring out the evidence upon which I based that statement.

Mr. SPOONER. I do not challenge, but the Senator ought to know that he is not to take everything for granted. I have seen things in the newspapers about the Senator from South Carolina. Does the Senator think I would believe them?

Mr. TILLMAN. I did not say I believed these other reports.

Mr. SPOONER. Does the Senator think I would tell them in public as statements which I believe? Not at all.

Mr. TILLMAN. I simply stated about the Senator from Pennsylvania what has been common property to every man who reads newspapers in the United States, and I said it right here where he could hear it.

Mr. SPOONER. The Senator from Pennsylvania—and that is the wickedness of this whirlwind of detraction—a great lawyer, opposed for confirmation (so long ago I dare say it now) upon the theory that he had been in the employ of corporations, has done more, and did do more during his tenure of the Attorney-General's Office to enforce the antitrust law and to carry to successful decision in the highest courts the laws enacted by Congress to protect the people against unlawful combinations than all the men who have been in the Attorney-General's Office for twenty years. I say that without reflection upon his predecessors.

Mr. TILLMAN. Do not let us go off on the Senator from Pennsylvania. I do not want to drag him in.

Mr. SPOONER. It is the principle of the thing.

Mr. TILLMAN. And the Senator brings it up, too, in an unpleasant connection. Why do you not go back to this proposition of cornfield law that the courts of the United States, except the Supreme Court, being statutory courts created by Congress, can be controlled by Congress?

Mr. SPOONER. What does the Senator mean by "control?"

Mr. TILLMAN. Anything; "control" means everything.

Mr. SPOONER. That is the control the Senator would have Congress exercise over the courts. The Senator from Maryland says, sotto voce, "to destroy." The Senator from Maryland is an orator and a lawyer of extraordinary ability——

Mr. TILLMAN. Yes; and you two great lawyers are right here pulling wool over these little technicalities, and when I give you the law you will not take it. [Laughter.]

Mr. SPOONER. When the Senator from Maryland and I are

in conflict on legal propositions it is the place of a cornfield lawyer to keep out of the controversy. [Laughter.]

Now, the Senator from Maryland said it could destroy. Does the Senator from Maryland mean that? Does the Senator from Maryland mean that under the Constitution Congress may pass a law destroying the circuit courts of the United States and the district courts of the United States, putting no inferior tribunal or tribunals in their place in which shall be vested the judicial power of the Constitution?

Mr. RAYNER. I will answer, if the Senator will allow me.

Mr. SPOONER. Does the Senator mean that?

Mr. RAYNER. If you pass a law here and have no court to review the decision, so that you can not execute the fifth amendment, that law would be void. That is an answer to the question. The law itself would be void. For instance, if there is no court now in existence with any right to review the order of the Interstate Commerce Commission under the Hepburn bill, then the very law proposed to be passed here would, under the Minnesota case, be void. I agree with the Senator upon that proposition.

Mr. SPOONER. Does the Senator think that Congress has the constitutional power to obliterate all the inferior courts of the United States by a valid act which does not itself substitute some inferior tribunal in their place?

Mr. RAYNER. I believe that if Congress were to-day to abolish either the district courts or circuit courts——

Mr. SPOONER. Either of them?

Mr. RAYNER. Allow me to finish my answer. If Congress to-day should pass an act abolishing the circuit courts or the district courts either, while that act might be anarchy, there is nothing unconstitutional about it, and nothing the Senator from Wisconsin has said has satisfied me that there would be anything unconstitutional about it. We are not discussing anarchy and we are not discussing treason. I say if there were a law here now before us abolishing the district courts of the United States, there would be nothing unconstitutional in that act.

Mr. SPOONER. The Senator from Maryland concedes my contention. He answered my question as I expected a lawyer like him to answer it. He dared not, as a lawyer, answer it affirmatively, and he did not. He would not here say that it is in the constitutional power of Congress to obliterate the inferior courts of the United States, the courts of equity, the courts of law, the courts in which all offenses against the laws of the United States are tried, the courts, Mr. President, which protect life, liberty, and property under the Constitution, putting none in their place. He would not claim that.

Mr. RAYNER rose.

Mr. SPOONER. Wait a moment. That would be anarchy. That would be hoisting the red flag of revolution.

Mr. RAYNER. I admit all that.

Mr. SPOONER. That would be Jacobinism.

Mr. RAYNER. I admit that.

Mr. SPOONER. That would be treason to the Constitution. The Senator would not say Congress could do that. But the Senator did say that the Congress could obliterate the *district courts* of the United States *or* the circuit courts of the United States. Probably so; but that is not all. That would leave the great equity tribunal on the one hand or it would leave the great law tribunal on the other.

But I want to say to the Senator, as he has met me half way, he ought to qualify his proposition and say that the Congress could wipe out the district court or the circuit court if by the same act it clothed the survivor with the law power and the equity power of the Constitution, as the case might be.

Judge Story was not wrong. The mandatory language of the Constitution, that the judicial power of the United States, in law and equity, "shall be vested in one Supreme Court *and* in such inferior courts as the Congress may from time to time ordain and establish," meant something. Out of the exercise of that power, or the execution of it, came the judiciary act, drawn by Oliver Ellsworth in the main, a very important man in the Constitutional Convention, afterwards Chief Justice of the Supreme Court of the United States, and from that day to this, Mr. President, for over a hundred years, we have had the circuit courts and the district courts created by the Congress under the Constitution exercising these functions, and never until now——

Mr. RAYNER. Mr. President, the Supreme Court has said three times that we had absolute control over the inferior courts of the United States, in the case in 8 Howard, another case in 18 Wallace, and the case in 147 U. S., and from that proposition and these premises they have argued the right to regulate them. Now, I do not pretend to say that it would not be anarchy, and chaos, and Jacobinism to abolish them, but the constitutional right of Congress to destroy what the Constitution has given it the right to ordain and establish is unquestionable in my mind. States can destroy the courts, if they want to. Suppose a State should fail to provide by statute for the crime of murder or any other crime; what would that be? Would that be unconstitutional? It would be anarchy; it would be chaos; it would be Jacobinism, or anything else you may call it; but we are arguing now the constitutional question whether Congress, having the right to ordain and establish, has not the right to destroy. The Constitution gives it the right to ordain and establish. It never would destroy our judicial system; there is not the remotest danger of doing it; the question is utterly impractical and a visonary question, but that it has the constitutional right to do it I never heard questioned by anyone except the Senator from Wisconsin.

Mr. SPOONER. The argument of the Senator is, on the assumption Congress has the power to destroy these courts, substituting none other for them, that Congress has the power, the courts remaining as they are, clothed with the jurisdiction in equity and law, to emasculate that jurisdiction in special cases. That is the argument. The greater includes the lesser. The predicate in the last analysis upon which the contention rests that Congress may take away from a court of equity the power to grant an interlocutory injunction is the power of Congress to revolutionize the country, to destroy these courts.

Mr. RAYNER. Let me say a word to the Senator before he closes.

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Maryland?

Mr. SPOONER. I yield.

Mr. RAYNER. There has not been one word said upon this side—I will speak of this side now—in opposition to giving the courts a full review over the decision of the Interstate Commerce Commission.

Mr. SPOONER. I am not talking about that.

Mr. RAYNER. But the Senator's argument tends in the direction that we here were willing to destroy the inferior courts of the United States.

Mr. SPOONER. I am not talking about that, nor do I think it of anyone here.

Mr. RAYNER. The amendment of the Senator from Texas [Mr. BAILEY] proposed the proposition to give the courts a full review—to let the case go up to the courts and give them the right to try the case over again—and the controversy between us was whether or not suspending orders ought to be issued without limitation, without qualification, and without giving notice to the Interstate Commerce Commission of the issue.

Mr. SPOONER. The Senator is making the same observations he has made several times this afternoon. They mean now what they did on each occasion, nothing more and nothing less. I am not discussing this bill, nor whether it is necessary to its constitutionality that there be incorporated in it a provision for a review. I think it is necessary; but I am not discussing that. I am discussing simply the validity of a proposition which has been offered and which I read for myself, and which I think is as I read it. That is what I am discussing, and not the question to which the Senator alludes.

Now, Mr. President, I have spoken under some embarrassment. I will be glad if I may be permitted to conclude in the morning.

Mr. TELLER. I am glad the Senator from Wisconsin will go on to-morrow. The Senator says he has spoken under some embarrassment. I think it is pretty difficult for a man to make a legal argument when he does not occupy the floor more than half the time. There are some points that some of us lawyers in this body would like to hear the Senator upon. I should hope that to-morrow when the Senator takes the floor Senators who may not agree with him will wait until he has a fair opportunity to present his views of the law. There are several points in the bill that any lawyer who has read it must have trouble with. As has been said, it is not a political question. It is an economical question, a question that the people are concerned in and that the property of the country is concerned in. I think we should give the Senator a fair opportunity to present his case, and if anyone wants to challenge it he should challenge it later.

I have heard the Senator say that he thought there are some unconstitutional provisions in the bill. That is what I want to hear him address himself to to-morrow.

Mr. SPOONER. I have been in the habit generally of outlining my own observations.

Mr. TELLER. Yes; I expect the Senator to do that.

Mr. SPOONER. I intend later to discuss the bill, but I have not intended to do so to-day. I do not object to interruptions. I came here ill, and that is what I referred to as an embarrassment.

Mr. RAYNER. I was interrupted a number of times myself.

Mr. SPOONER. I do not object to that at all. I intend to confine myself to a discussion of this one proposition. I wish to discuss the proposition to-morrow that, admitting, for the purposes of the argument, the power of Congress generally to deprive the circuit courts of the United States of the power to grant interlocutory injunctions, to do it in this bill would be upon grounds peculiar to itself unconstitutional.

Mr. TELLER. Of course, I did not intend to intimate that I was going to direct the Senator.

Mr. SPOONER. I know that.

Mr. TELLER. But, knowing something of his views, I want to hear him on two or three other points in the bill. I have an inquiring mind on those questions; and I should like to hear some man upon them who is a recognized authority, as is the Senator from Wisconsin. I should like to hear him discuss those questions.

I do not mean to say that I agree with everything the Senator said here to-day, but I have felt inclined to let him complete his remarks, and if I had any difference of opinion with him I would express it on another day. I know it is not quite easy for a Senator to lay out a plan for the discussion of a legal question and then be diverted by questions that sometimes are not strictly appropriate and proper to what he is discussing. That is what I meant to suggest to the Senator. I meant nothing else.

Mr. SPOONER. I am certain of that.

Mr. SCOTT. Mr. President, there are many of us who are not constitutional lawyers, and not even "cornfield" lawyers, and we would really be glad to listen to the Senator from Wisconsin or any other Senator on constitutional questions and on law with the hope that he may enlighten us so that we can vote intelligently upon the bill that is before us.

EXECUTIVE SESSION.

Mr. ALLISON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock p. m.) the Senate adjourned until to-morrow, Friday, March 23, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate, March 22, 1906.

APPOINTMENTS, BY TRANSFER, IN THE ARMY.

First Lieut. Wallace M. Craigie, Seventh Infantry, from the Infantry Arm to the Cavalry Arm, with rank from February 2, 1901.

First Lieut. Russell T. Hazzard, First Cavalry, from the Cavalry Arm to the Infantry Arm, with rank from February 2, 1901.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 22, 1906.

AMBASSADOR.

Charles S. Francis, of New York, to be ambassador extraordinary and plenipotentiary of the United States to Austria-Hungary.

POSTMASTERS.

GEORGIA.

John B. Dunagan to be postmaster at Jefferson, in the county of Jackson and State of Georgia.

Benjamin A. Lifsey to be postmaster at Barnesville, in the county of Pike and State of Georgia.

S. T. Nance to be postmaster at Arlington, in the county of Calhoun and State of Georgia.

Joel F. Thornton to be postmaster at Greensboro, in the county of Greene and State of Georgia.

INDIANA.

John W. Henderson to be postmaster at Greenwood, in the county of Johnson and State of Indiana.

Albert H. Leist to be postmaster at Michigan City, in the county of La Porte and State of Indiana.

Joseph H. Miller to be postmaster at Syracuse, in the county of Kosciusko and State of Indiana.

INDIAN TERRITORY.

John K. Hannah to be postmaster at Sallisaw, in District Eleven, Ind. T.

KENTUCKY.

Arthur M. Hughes to be postmaster at Louisa, in the county of Lawrence and State of Kentucky.

NEW YORK.

Frank I. Hadaway to be postmaster at Montgomery, in the county of Orange and State of New York.

Egbert L. Hodskin to be postmaster at Fairport, in the county of Monroe and State of New York.

Stott Mills to be postmaster at Warwick, in the county of Orange and State of New York.

OKLAHOMA.

William E. Johnston to be postmaster at Tecumseh, in the county of Pottawatomie and Territory of Oklahoma.

PENNSYLVANIA.

Clark Collins to be postmaster at Connellsville, in the county of Fayette and State of Pennsylvania.

S. Clay Miller to be postmaster at Lancaster, in the county of Lancaster and State of Pennsylvania.

Nathan Tanner to be postmaster at Lansford, in the county of Carbon and State of Pennsylvania.

Frederick W. Ulrich to be postmaster at South Bethlehem, in the county of Northampton and State of Pennsylvania.

WEST VIRGINIA.

Richard A. Hall to be postmaster at Weston, in the county of Lewis and State of West Virginia.

Alonzo E. Linch to be postmaster at Moundsville, in the county of Marshall and State of West Virginia.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March 22, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

STATEHOOD BILL.

Mr. DALZELL. Mr. Speaker, I submit the following privileged report from the Committee on Rules.

The SPEAKER. The gentleman from Pennsylvania makes the following privileged report from the Committee on Rules, which the Clerk will read.

The Clerk read as follows:

The Committee on Rules, to whom was referred the resolution of the House (No. 369), have had the same under consideration, and respectfully report the following in lieu thereof:

"*Resolved*, That the bill (H. R. 12707) entitled 'An act to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States,' be, and hereby is, taken from the Speaker's table, with the Senate amendments thereto, to the end that the said amendments be, and hereby are, disagreed to; and a conference be, and hereby is, asked with the Senate on the disagreeing votes on the said amendments, and the Speaker shall immediately appoint the conferees."

Mr. DALZELL. Mr. Speaker, I move the adoption of the report, and on that I ask the previous question.

The SPEAKER. The gentleman from Pennsylvania moves the adoption of the resolution and demands the previous question.

The question was taken on ordering the previous question; and the Speaker announced that the ayes seemed to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

The House divided; and there were—ayes 149, noes 124.

Mr. WILLIAMS. Let us have the yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

The question was taken; and there were—yeas 173, nays 153, answered "present" 5, not voting 52, as follows:

YEAS—173.

Acheson	Burton, Ohio	Dawson	Gaines, W. Va.
Adams, Pa.	Butler, Pa.	Deemer	Gardner, N. J.
Allen, Me.	Calder	Denby	Gilbert, Ind.
Allen, N. J.	Campbell, Kans.	Dickson, Ill.	Gillett, Mass.
Andrus	Capron	Dixon, Mont.	Graff
Barchfeld	Cassel	Dovener	Graham
Bates	Chaney	Draper	Greene
Bennet, N. Y.	Chapman	Dresser	Grosvenor
Birdsall	Cocks	Driscoll	Hamilton
Bishop	Cole	Dunwell	Haskins
Boutell	Conner	Dwight	Haugen
Bowersock	Cooper, Pa.	Edwards	Hedge
Bradley	Cooper, Wis.	Ellis	Henry, Conn.
Brick	Cousins	Fassett	Hepburn
Brownlow	Crumpacker	Flack	Higgins
Buckman	Currier	Fletcher	Hill, Conn.
Burke, Pa.	Curtis	Foss	Hinshaw
Burke, S. Dak.	Dalzell	Foster, Ind.	Hoar
Burleigh	Davis, Minn.	Foster, Vt.	Hogg
Burton, Del.	Dawes	Fowler	Howell, N. J.